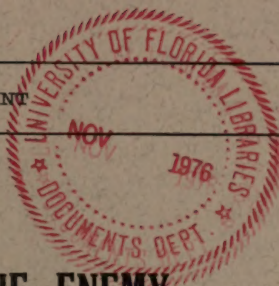


94th Congress }
2d Session }

COMMITTEE PRINT



TRADING WITH THE ENEMY

Legislative and Executive Documents Concerning
Regulation of International Transactions in
Time of Declared National Emergency

PREPARED BY THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
AND COMMERCE
OF THE
COMMITTEE ON INTERNATIONAL
RELATIONS



NOVEMBER 1976

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RELATIONS



NOVEMBER 1976

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FOREWORD

The Trading With the Enemy Act of 1917 has been on the books for nearly 60 years. As amended during that period, section 5(b) has provided the President with progressively broader authority to regulate the nation's international (and domestic) finance during periods of declared national emergency. This section has been construed over the years as providing statutory authority for "emergency" actions as diverse as the "bank holiday" of 1933, an alien property freeze and consumer credit controls imposed during World War II, foreign direct investment controls imposed in 1968, and routine export controls in 1972, 1974, and 1976. It provides a major statutory basis for the trade embargoes currently in effect against North Korea, Vietnam, Cambodia, and Cuba.

But despite the obvious importance of section 5(b), its legislative history has never before been assembled and fully reviewed. The purpose of this committee print is to provide such a legislative history. It is designed to serve as a set of working documents for the use of the Subcommittee on International Trade and Commerce and of the full International Relations Committee. These documents should also be of interest and use to other Members of Congress working on related matters, and to the interested public.

In January 1973, Senate Resolution 9 established a bipartisan Senate Special Committee on the Termination of the National Emergency "to conduct a study and investigation with respect to the matter of terminating the national emergency proclaimed by the President of the United States on December 16, 1950. * * *" This national emergency, proclaimed to aid in prosecuting the Korean war, had never been terminated. The Special Committee soon discovered that not one but four "national emergencies" continued in effect, including the national emergency declared by President Roosevelt on March 6, 1933, to meet the problems of the depression, and the national emergencies declared by President Nixon on March 23, 1970, because of a Post Office strike, and on August 15, 1971, to deal with balance of payments and other international problems.

The Special Committee also discovered that no inventory existed of the hundreds of statutes delegating powers to the President which were activated by these Presidential declarations. In the words of Senator Mathias, Special Committee cochairman, "a majority of the people of the United States have lived all of their lives under emergency government." The other cochairman, Senator Church, pointed out that the basic question before the Special Committee was "whether it is possible for a democratic government such as ours to exist under its present Constitution and system of three separate branches equal in power under a continued state of emergency."

An exhaustive 2-year study by the Special Committee, followed by extensive consideration by the appropriate legislative committees of each house, has produced the National Emergencies Act, which was signed into law by the President on September 14, 1976 (Public Law 94-412).¹ The act terminates all powers and authorities possessed by the executive branch as a result of any declaration of national emergency, and prescribes procedures governing the declaration, conduct, and termination of any future national emergency. Exempted, however, from the National Emergencies Act are certain laws deemed especially important to the functioning of the government. Among these is section 5(b) of the Trading With the Enemy Act.

Given the jurisdiction of the Committee on International Relations under the Rules of the House, it is the responsibility of the committee and its Subcommittee on International Trade and Commerce, pursuant to Section 502 of the National Emergencies Act, to conduct a thorough review of section 5(b) of the Trading With the Enemy Act and to recommend revisions to the House within 9 months.

Two problems arise in attempting to determine congressional intent with regard to section 5(b). The first is that the legislative history of 5(b) is short and sketchy. There was virtually no discussion of it at the time of the passage of the original Trading With the Enemy Act, and subsequent amendments generally occurred in times of crisis when apparently it was felt that there was no time for the luxury of extensive debate. The most striking example is that the 1933 amendment, which authorized the President to invoke the powers of 5(b) simply by declaring a national emergency, was debated and passed by both houses in 1 day, without hearings and before the bill was even in print. The second is that the relationship of 5(b) to the rest of the Trading With the Enemy Act was ambiguous from the beginning, in that there was no language in that section limiting its application to the "enemy" in time of "war" as defined in section 2 of the act.

In these circumstances, the subcommittee has sought to include in this volume all the legislative history which might conceivably be relevant. Part I includes the following: the text of the entire Trading With the Enemy Act as originally passed, and those portions of the floor debates, committee reports, and hearings which pertain to the general purposes of the bill or to 5(b); the complete legislative history of all four subsequent amendments to section 5(b); the legislative history of relevant sections of two others acts (the "Knox Resolution" of 1921 and the Gold Reserve Act of 1934) which pertain to 5(b) without actually amending it; and the current status of the entire Trading With the Enemy Act as it appears in the United States Code Annotated.

If the legislative history of section 5(b) is short, its "executive history" is extensive. The authority of 5(b) has been invoked in numerous Presidential proclamations and Executive orders. These are reprinted in part II of this volume. Finally, in part III, the current regulations

¹ The text of Public Law 94-412 appears on p. 437.

JONATHAN B. BINGHAM,
Chairman, Subcommittee on
International Trade and Commerce.

¹ The following comprehensive collections of documents relating to emergency powers are also available: U.S. Congress, Senate, "Emergency Powers Statutes: Provisions of Federal Law Now in Effect Delegating to the Executive Extraordinary Authority in Time of National Emergency," report of the Special Committee on the Termination of the National Emergency, 93d Congress, 1st Session (Nov. 19, 1973); U.S. Congress, Senate, "Executive Orders in Times of War and National Emergency," report of the Special Committee on National Emergencies and Delegated Emergency Powers, 93d Congress, 2d Session (June 1974); U.S. Congress, Senate, "Executive Replies" (Part 1: Evaluation of Emergency Powers Statutes; Part 2: Summaries of the Executive Branch and Committee Recommendations; Part 3: Statutes At Large), prepared by the staff of the Special Committee on National Emergencies and Delegated Emergency Powers, 93d Congress, 2d Session (November 1974).

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PART I

**A LEGISLATIVE HISTORY OF SECTION 5(b) OF THE
TRADING WITH THE ENEMY ACT**

A. Trading With the Enemy Act

[40 Stat. 411, 12 U.S.C. 95a, 50 U.S.C. App. 1-44, approved October 6, 1917]

1. Text of Act

AN ACT To define, regulate, and punish trading with the enemy, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Trading With the Enemy Act."

SEC. 2. That the word "enemy," as used herein, shall be deemed to mean, for the purposes of such trading and of this Act—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy."

The words "ally of enemy," as used herein, shall be deemed to mean—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation which is an ally of a nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of such ally nation, or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation which is an ally of a nation with which the United States is at war, or any political or municipal subdivision of such ally nation, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation which is an ally of a

nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "ally of enemy."

The word "person," as used herein, shall be deemed to mean an individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic.

The words "United States," as used herein, shall be deemed to mean all land and water, continental or insular, in any way within the jurisdiction of the United States or occupied by the military or naval forces thereof.

The words "the beginning of the war," as used herein, shall be deemed to mean midnight ending the day on which Congress has declared or shall declare war or the existence of a state of war.

The words "end of the war," as used herein, shall be deemed to mean the date of proclamation of exchange of ratifications of the treaty of peace, unless the President shall, by proclamation, declare a prior date, in which case the date so proclaimed shall be deemed to be the "end of the war" within the meaning of this Act.

The words "bank or banks," as used herein, shall be deemed to mean and include national banks, State banks, trust companies, or other banks or banking associations doing business under the laws of the United States, or of any State of the United States.

The words "to trade," as used herein, shall be deemed to mean—

(a) Pay, satisfy, compromise, or give security for the payment or satisfaction of any debt or obligation.

(b) Draw, accept, pay, present for acceptance or payment, or indorse any negotiable instrument or chose in action.

(c) Enter into, carry on, complete, or perform any contract, agreement, or obligation.

(d) Buy or sell, loan or extend credit, trade in, deal with, exchange, transmit, transfer, assign, or otherwise dispose of, or receive any form of property.

(e) To have any form of business or commercial communication or intercourse with.

SEC. 3. That it shall be unlawful—

(a) For any person in the United States, except with the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in this Act, to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

(b) For any person, except with the license of the President, to transport or attempt to transport into or from the United States, or for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place, any subject or citizen of an enemy or ally of enemy nation, with knowledge or reasonable cause to believe that

the person transported or attempted to be transported is such subject or citizen.

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, or bring into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit out of the United States, any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy: *Provided, however,* That any person may send, take, or transmit out of the United States anything herein forbidden if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

(d) Whenever, during the present war, the President shall deem that the public safety demands it, he may cause to be censored under such rules and regulations as he may from time to time establish, communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall be punished as provided in section sixteen of this Act.

SEC. 4. (a) Every enemy or ally of enemy insurance or reinsurance company, and every enemy or ally of enemy, doing business within the United States through an agency or branch office, or otherwise, may, within thirty days after the passage of this Act, apply to the President for a license to continue to do business; and, within thirty days after such application, the President may enter an order either granting or refusing to grant such license. The license, if granted, may be temporary or otherwise, and for such period of time, and may contain such provisions and conditions regulating the business, agencies, managers and trustees and the control and disposition of the funds of the company, or of such enemy or ally of enemy, as the President shall deem necessary for the safety of the United States; and any license granted hereunder may be revoked or regranted or renewed in such manner and at such times as the President shall determine: *Provided, however,* That reasonable notice of his intent to refuse to grant a license or to revoke a license granted to any reinsurance company shall be given by him to all insurance companies incorporated within the United States and known to the President

to be doing business with such reinsurance company: *Provided further*, That no insurance company, organized within the United States, shall be obligated to continue any existing contract, entered into prior to the beginning of the war, with any enemy or ally of enemy insurance or reinsurance company, but any such company may abrogate and cancel any such contract by serving thirty days notice in writing upon the President of its election to abrogate such contract.

For a period of thirty days after the passage of this Act, and further pending the entry of such order by the President, after application made by any enemy or ally of enemy insurance or reinsurance company, within such thirty days as above provided, the provisions of the President's proclamation of April sixth, nineteen hundred and seventeen, relative to agencies in the United States of certain insurance companies, as modified by the provisions of the President's proclamation of July thirteenth, nineteen hundred and seventeen, relative to marine and war-risk insurance, shall remain in full force and effect so far as it applies to such German insurance companies, and the conditions of said proclamation of April sixth, nineteen hundred and seventeen, as modified by said proclamation of July thirteenth, nineteen hundred and seventeen, shall also during said period of thirty days after the passage of this Act, and pending the order of the President as herein provided, apply to any enemy or ally of enemy insurance or reinsurance company, anything in this Act to the contrary notwithstanding. It shall be unlawful for any enemy or ally of enemy insurance or reinsurance company, to whom license is granted, to transmit out of the United States any funds belonging to or held for the benefit of such company or to use any such funds as the basis for the establishment directly or indirectly of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

For a period of thirty days after the passage of this Act, and further pending the entry of such order by the President, after application made within such thirty days by any enemy or ally of enemy, other than an insurance or reinsurance company as above provided, it shall be lawful for such enemy or ally of enemy to continue to do business in this country and for any person to trade with, to, from, for, on account of, on behalf of or for the benefit of such enemy or ally of enemy, anything in this Act to the contrary notwithstanding: *Provided, however*, That the provisions of sections three and sixteen hereof shall apply to any act or attempted act of transmission or transfer of money or other property out of the United States and to the use or attempted use of such money or property as the basis for the establishment of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

If no license is applied for within thirty days after the passage of this Act, or if a license shall be refused to any enemy or ally of enemy, whether insurance or reinsurance company, or other person, making application, or if any license granted shall be revoked by the President, the provisions of sections three and sixteen hereof shall forthwith apply to all trade or to any attempt to trade with, to, from, for, by, on account of, or on behalf of, or for the benefit of such company

or other person: *Provided, however,* That after such refusal or revocation, anything in this Act to the contrary notwithstanding, it shall be lawful for a policyholder or for an insurance company, not an enemy or ally of enemy, holding insurance or having effected reinsurance in or with such enemy or ally of enemy insurance or reinsurance company, to receive payment of, and for such enemy or ally of enemy insurance or reinsurance company to pay any premium, return premium, claim, money, security, or other property due or which may become due on or in respect to such insurance or reinsurance in force at the date of such refusal or revocation of license; and nothing in this Act shall vitiate or nullify then existing policies or contracts of insurance or reinsurance, or the conditions thereof; and any such policy holder or insurance company, not an enemy or ally of enemy, having any claim to or upon money or other property of the enemy or ally of enemy insurance or reinsurance company in the custody or control of the alien property custodian, hereinafter provided for, or of the Treasurer of the United States, may make application for the payment thereof and may institute suit as provided in section nine hereof.

(b) That, during the present war, no enemy, or ally of enemy, and no partnership of which he is a member or was a member at the beginning of the war, shall for any purpose assume or use any name other than that by which such enemy or partnership was ordinarily known at the beginning of the war, except under license from the President.

Whenever, during the present war, in the opinion of the President the public safety or public interest requires, the President may prohibit any or all foreign insurance companies from doing business in the United States, or the President may license such company or companies to do business upon such terms as he may deem proper.

SEC. 5. (a) That the President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this Act so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section four hereof, and to perform any act made unlawful without such license in section three hereof, and to file and prosecute applications under subsection (b) of section ten hereof; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out the provisions of this Act; and the President may exercise any power of authority conferred by this Act through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section three hereof he shall have authority to order the postponement of the performance

of such act for a period not exceeding ninety days, pending investigation of the facts by him.

(b) That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, export or earmarkings of gold or silver coin or bullion or currency, transfers of credit in any form (other than credits relating solely to transactions to be executed wholly within the United States), and transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country, whether enemy, ally of enemy or otherwise, or between residents of one or more foreign countries, by any person within the United States; and he may require any such person engaged in any such transaction to furnish, under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed.

SEC. 6. That the President is authorized to appoint, prescribe the duties of, and fix the salary (not to exceed \$5,000 per annum) of an official to be known as the alien property custodian, who shall be empowered to receive all money and property in the United States due or belonging to an enemy, or ally of enemy, which may be paid, conveyed, transferred, assigned, or delivered to said custodian under the provisions of this Act; and to hold, administer, and account for the same under the general direction of the President and as provided in this Act. The alien property custodian shall give such bond or bonds, and in such form and amount, and with such security as the President shall prescribe. The President may further employ in the District of Columbia and elsewhere and fix the compensation of such clerks, attorneys, investigators, accountants, and other employees as he may find necessary for the due administration of the provisions of this Act: *Provided*, That such clerks, investigators, accountants, and other employees shall be appointed from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil-service law: *Provided further*, That the President shall cause a detailed report to be made to Congress on the first day of January of each year of all proceedings had under this Act during the year preceding. Such report shall contain a list of all persons appointed or employed, with the salary or compensation paid to each, and a statement of the different kinds of property taken into custody and the disposition made thereof.

SEC. 7. (a) That every corporation incorporated within the United States, and every unincorporated association, or company, or trustee, or trustees within the United States, issuing shares or certificates representing beneficial interests, shall, under such rules and regulations as the President may prescribe and, within sixty days after the passage of this Act, and at such other times thereafter as the President may require, transmit to the alien property custodian a full list, duly sworn to, of every officer, director, or stockholder known to be, or whom the representative of such corporation, association, company, or trustee has reasonable cause to believe to be an enemy or ally of enemy resident within the territory, or a subject or citizen residing outside of the United States, of any nation with which the

United States is at war, or resident within the territory, or a subject or citizen residing outside of the United States, of any ally of any nation with which the United States is at war, together with the amount of stock or shares owned by each such officer, director, or stockholder, or in which he has any interest.

The President may also require a similar list to be transmitted of all stock or shares owned on February third, nineteen hundred and seventeen, by any person now defined as an enemy or ally of enemy, or in which any such person had any interest; and he may also require a list to be transmitted of all cases in which said corporation, association, company, or trustee has reasonable cause to believe that the stock or shares on February third, nineteen hundred and seventeen, were owned or are owned by such enemy or ally of enemy, though standing on the books in the name of another: *Provided, however,* That the name of any such officer, director, or stockholder shall be stricken permanently or temporarily from such list by the alien property custodian when he shall be satisfied that he is not such enemy or ally of enemy.

Any person in the United States who holds or has or shall hold or have custody or control of any property beneficial or otherwise, alone or jointly with others, of, for, or on behalf of an enemy or ally of enemy, or of any person whom he may have reasonable cause to believe to be an enemy or ally of enemy and any person in the United States who is or shall be indebted in any way to an enemy or ally of enemy, or to any person whom he may have reasonable cause to believe to be an enemy or ally of enemy, shall, with such exceptions and under such rules and regulations as the President shall prescribe, and within thirty days after the passage of this Act, or within thirty days after such property shall come within his custody or control, or after such debt shall become due, report the fact to the alien-property custodian by written statement under oath containing such particulars as said custodian shall require. The President may also require a similar report of all property so held, of, for, or on behalf of, and of all debts so owed to, any person now defined as an enemy or ally of enemy, on February third, nineteen hundred and seventeen: *Provided,* That the name of any person shall be stricken from the said report by the alien-property custodian, either temporarily or permanently, when he shall be satisfied that such person is not an enemy or ally of enemy. The President may extend the time for filing the lists or reports required by this section for an additional period not exceeding ninety days.

(b) Nothing in this Act contained shall render valid or legal, or be construed to recognize as valid or legal, any act or transaction constituting trade with, to, from, for or on account of, or on behalf or for the benefit of an enemy performed or engaged in since the beginning of the war and prior to the passage of this Act, or any such act or transaction hereafter performed or engaged in except as authorized hereunder, which would otherwise have been or be void, illegal, or invalid at law. No conveyance, transfer, delivery, payment, or loan of money or other property, in violation of section three hereof, made after the passage of this Act, and not under license as herein provided shall confer or create any right or remedy in respect thereof; and no person shall by virtue of any assignment, indorsement, or

delivery to him of any debt, bill, note, or other obligation or chose in action by, from, or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy have any right or remedy against the debtor, obligor, or other person liable to pay. fulfill, or perform the same unless said assignment, indorsement, or delivery was made prior to the beginning of the war or shall be made under license as herein provided, or unless, if made after the beginning of the war and prior to the date of passage of this Act, the person to whom the same was made shall prove lack of knowledge and of reasonable cause to believe on his part that the same was made by, from or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy; and any person who knowingly pays, discharges, or satisfies any such debt, note, bill, or other obligation or chose in action shall, on conviction thereof, be deemed to violate section three hereof: *Provided*, That nothing in this Act contained shall prevent the carrying out, completion, or performance of any contract, agreement, or obligation originally made with or entered into by an enemy or ally of enemy where. prior to the beginning of the war and not in contemplation thereof, the interest of such enemy or ally of enemy devolved by assignment or otherwise upon a person not an enemy or ally of enemy, and no enemy or ally of enemy will be benefited by such carrying out, completion, or performance otherwise than by release from obligation thereunder.

Nothing in this Act shall be deemed to prevent payment of money belonging or owing to an enemy or ally of enemy to a person within the United States not an enemy or ally of enemy, for the benefit of such person or of any other person within the United States not an enemy or ally of enemy, if the funds so paid shall have been received prior to the beginning of the war and such payments arise out of transactions entered into prior to the beginning of the war, and not in contemplation thereof: *Provided*, That such payment shall not be made without the license of the President, general or special, as provided in this Act.

Nothing in this Act shall be deemed to authorize the prosecution of any suit or action at law or in equity in any court within the United States by an enemy or ally of enemy prior to the end of the war, except as provided in section ten hereof: *Provided, however*, That an enemy or ally of enemy licensed to do business under this Act may prosecute and maintain any such suit or action so far as the same arises solely out of the business transacted within the United States under such license and so long as such license remains in full force and effect: *And provided further*, That an enemy or ally of enemy may defend by counsel any suit in equity or action at law which may be brought against him.

Receipt of notice from the President to the effect that he has reasonable ground to believe that any person is an enemy or ally of enemy shall be prima facie defense to any one receiving the same, in any suit or action at law or in equity brought or maintained, or to any right or set-off or recoupment asserted by, such person and based on failure to complete or perform since the beginning of the war any contract or other obligation. In any prosecution under section sixteen hereof, proof of receipt of notice from the President to the effect that he has reasonable cause to believe that any person is an enemy

or ally of enemy shall be prima facie evidence that the person receiving such notice has reasonable cause to believe such other person to be an enemy or ally of enemy within the meaning of section three hereof.

(c) If the President shall so require, any money or other property owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the alien property custodian.

(d) If not required to pay, convey, transfer, assign, or deliver under the provisions of subsection (c) hereof, any person not an enemy or ally of enemy who owes to, or holds for, or on account of, or on behalf of, or for the benefit of an enemy or of an ally of enemy not holding a license granted by the President hereunder, any money or other property, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for payment, may, at his option, with the consent of the President, pay, convey, transfer, assign, or deliver to the alien property custodian said money or other property under such rules and regulations as the President shall prescribe.

(e) No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this Act.

Any payment, conveyance, transfer, assignment, or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owed to an enemy or ally of enemy, deliver up any notes, bonds, or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee. The President shall issue to every person so appointed a certificate of the appointment and authority of such person, and such certificate shall be received in evidence in all courts within the United States. Whenever any such certificate of authority shall be offered to any registrar, clerk, or other recording officer, Federal or otherwise, within the United States, such officer shall record the same in like manner as a power of attorney, and such record or a duly certified copy thereof shall be received in evidence in all courts of the United States or other courts within the United States.

SEC. 8. (a) That any person not an enemy or ally of enemy holding a lawful mortgage, pledge, or lien, or other right in the nature of security in property of an enemy or ally of enemy which, by law or

by the terms of the instrument creating such mortgage, pledge, or lien, or right, may be disposed of on notice or presentation or demand, and any person not an enemy or ally of enemy who is a party to any lawful contract with an enemy or ally of enemy, the terms of which provide for a termination thereof upon notice or for acceleration of maturity on presentation or demand, may continue to hold said property, and, after default, may dispose of the property in accordance with law or may terminate or mature such contract by notice or presentation or demand served or made on the alien property custodian in accordance with the law and the terms of such instrument or contract and under such rules and regulations as the President shall prescribe; and such notice and such presentation and demand shall have, in all respects, the same force and effect as if duly served or made upon the enemy or ally of enemy personally: *Provided*, That no such rule or regulation shall require that notice or presentation or demand shall be served or made in any case in which, by law or by the terms of said instrument or contract, no notice, presentation, or demand was, prior to the passage of this Act, required; and that in case where, by law or by the terms of such instrument or contract, notice is required, no longer period of notice shall be required: *Provided further*, That if, on any such disposition of property, a surplus shall remain after the satisfaction of the mortgage, pledge, lien, or other right in the nature of security, notice of that fact shall be given to the President pursuant to such rules and regulations as he may prescribe, and such surplus shall be held subject to his further order.

(b) That any contract entered into prior to the beginning of the war between any citizen of the United States or any corporation organized within the United States, and an enemy or ally of an enemy, the terms of which provide for the delivery, during or after any war in which a present enemy or ally of enemy nation has been or is now engaged, of anything produced, mined, or manufactured in the United States, may be abrogated by such citizen or corporation by serving thirty days' notice in writing upon the alien property custodian of his or its election to abrogate such contract.

(c) The running of any statute of limitations shall be suspended with reference to the rights or remedies on any contract or obligation entered into prior to the beginning of the war between parties neither of whom is an enemy or ally of enemy, and containing any promise to pay or liability for payment which is evidenced by drafts or other commercial paper drawn against or secured by funds or other property situated in an enemy or ally of enemy country, and no suit shall be maintained on any such contract or obligation in any court within the United States until after the end of the war, or until the said funds or property shall be released for the payment or satisfaction of such contract or obligation: *Provided, however*, That nothing herein contained shall be construed to prevent the suspension of the running of the statute of limitations in all other cases where such suspension would occur under existing law.

SEC. 9. That any person, not an enemy, or ally of enemy, claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder, and held by him or by the

Treasurer of the United States, or to whom any debt may be owing from an enemy, or ally of enemy, whose property or any part thereof shall have been conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder, and held by him or by the Treasurer of the United States, may file with the said custodian a notice of his claim under oath and in such form and containing such particulars as the said custodian shall require; and the President, if application is made therefor by the claimant, may, with the assent of the owner of said property and of all persons claiming any right, title, or interest therein, order the payment, conveyance, transfer, assignment or delivery to said claimant of the money or other property so held by the alien property custodian or by the Treasurer of the United States or of the interest therein to which the President shall determine said claimant is entitled: *Provided*, That no such order by the President shall bar any person from the prosecution of any suit at law or in equity against the claimant to establish any right, title or interest which he may have in such money or other property. If the President shall not so order within sixty days after the filing of such application, or if the claimant shall have filed the notice as above required and shall have made no application to the President, said claimant may, at any time before the expiration of six months after the end of the war, institute a suit in equity in the district court of the United States for the district in which such claimant resides, or, if a corporation, where it has its principal place of business (to which suit the alien property custodian or the Treasurer of the United States, as the case may be, shall be made a party defendant), to establish the interest, right, title, or debt so claimed, and if suit shall be so instituted then the money or other property of the enemy, or ally of enemy, against whom such interest, right, or title is asserted, or debt claimed, shall be retained in the custody of the alien property custodian, or in the Treasury of the United States, as provided in this Act, and until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignment, or delivery by the defendant or by the alien property custodian or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant, or suit otherwise terminated.

Except as herein provided, the money or other property conveyed, transferred, assigned, delivered, or paid to the alien property custodian shall not be liable to lien, attachment, garnishment, trustee process, or execution, or subject to any order or decree of any court.

This section shall not apply, however, to money paid to the alien property custodian under section ten hereof.

SEC. 10. That nothing contained in this Act shall be held to make unlawful any of the following Acts:

(a) An enemy, or ally of enemy, may file and persecute in the United States an application for letters patent, or for registration of trade-mark, print, label, or copyright, and may pay any fees therefor in accordance with and as required by the provisions of existing law and fees for attorneys or agents for filing and prosecuting such applications. Any such enemy, or ally of enemy, who is unable during war, or within six months thereafter, on account of conditions

arising out of war, to file any such application, or to pay any official fee, or to take any action required by law within the period prescribed by law, may be granted an extension of nine months beyond the expiration of said period, provided the nation of which the said applicant is a citizen, subject, or corporation shall extend substantially similar privileges to citizens and corporations of the United States.

(b) Any citizen of the United States, or any corporation organized within the United States, may, when duly authorized by the President, pay to an enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally of enemy nation in relation to patents and trade-marks, prints, labels, and copyrights; and any such citizen or corporation may file and prosecute an application for letters patent or for registration of trade-mark, print, label, or copyright in the country of an enemy, or of an ally of enemy after first submitting such application to the President and receiving license so to file and prosecute, and to pay the fees required by law and customary agents' fees, the maximum amount of which in each case shall be subject to the control of the President.

(c) Any citizen of the United States or any corporation organized within the United States desiring to manufacture, or cause to be manufactured, a machine, manufacture, composition of matter, or design, or to carry on, or to use any trade-mark, print, label or cause to be carried on, a process under any patent or copyrighted matter owned or controlled by an enemy or ally of enemy at any time during the existence of a state of war may apply to the President for a license; and the President is hereby authorized to grant such a license, nonexclusive or exclusive as he shall deem best, provided he shall be of the opinion that such grant is for the public welfare, and that the applicant is able and intends in good faith to manufacture, or cause to be manufactured, the machine, manufacture, composition of matter, or design, or to carry on, or cause to be carried on, the process or to use the trade-mark, print, label or copyrighted matter. The President may prescribe the conditions of this license, including the fixing of prices of articles and products necessary to the health of the military and naval forces of the United States or the successful prosecution of the war, and the rules and regulations under which such license may be granted and the fee which shall be charged therefor, not exceeding \$100, and not exceeding one per centum of the fund deposited as hereinafter provided. Such license shall be a complete defense to any suit at law or in equity instituted by the enemy or ally of enemy owners of the letters patent, trade-mark, print, label or copyright or otherwise, against the licensee for infringement or for damages, royalty, or other money award on account of anything done by the licensee under such license, except as provided in subsection (f) thereof.

(d) The licensee shall file with the President a full statement of the extent of the use and enjoyment of the license, and of the prices received in such form and at such stated periods (at least annually) as the President may prescribe; and the licensee shall pay at such times as may be required to the alien property custodian not to exceed five per centum of the gross sums received by the licensee from the sale of said inventions or use of the trade-mark, print, label or copyright matter, or, if the President shall so order, five per centum of the value of the

use of such inventions, trade-marks, prints, labels or copyrighted matter to the licensee as established by the President; and sums so paid shall be deposited by said alien property custodian forthwith in the Treasury of the United States as a trust fund for the said licensee and for the owner of the said patent, trade-mark, print, label or copyright registration as hereinafter provided, to be paid from the Treasury upon order to the court, as provided in subdivision (f) of this section, or upon the direction of the alien property custodian.

(e) Unless surrendered or terminated as provided in this Act, any license granted hereunder shall continue during the term fixed in the license or in the absence of any such limitation during the term of the patent, trade-mark, print, label, or copyright registration under which it is granted. Upon violation by the licensee of any of the provisions of this Act, or the conditions of the license, the President may, after due notice and hearing, cancel any license granted by him.

(f) The owner of any patent, trade-mark, print, label, or copyright under which a license is granted hereunder may, after the end of the war and until the expiration of one year thereafter, file a bill in equity against the licensee in the district court of the United States for the district in which the said licensee resides, or, if a corporation, in which it has its principal place of business (to which suit the Treasurer of the United States shall be made a party), for recovery from the said licensee for all use and enjoyment of the said patented invention, trade-mark, print, label, or copyrighted matter: *Provided, however,* That whenever suit is brought, as above, notice shall be filed with the alien property custodian within thirty days after date of entry of suit: *Provided further,* That the licensee may make any and all defenses which would be available were no license granted. The court on due proceedings had may adjudge and decree to the said owner payment of a reasonable royalty. The amount of said judgment and decree, when final, shall be paid on order of the court to the owner of the patent from the fund deposited by the licensee, so far as such deposit will satisfy said judgment and decree; and the said payment shall be in full or partial satisfaction of said judgment and decree as the facts may appear; and if, after payment of all such judgments and decrees, there shall remain any balance of said deposit, such balance shall be repaid to the licensee on order of the alien property custodian. If no suit is brought within one year after the end of the war, or no notice is filed as above required, then the licensee shall not be liable to make any further deposits, and all funds deposited by him shall be repaid to him on order of the alien property custodian. Upon entry of suit and notice filed as above required, or upon repayment of funds as above provided, the liability of the licensee to make further reports to the President shall cease.

If suit is brought as above provided, the court may, at any time, terminate the license, and may, in such event, issue an injunction to restrain the licensee from infringement thereafter, or the court, in case the licensee, prior to suit, shall have made investment of capital based on possession of the license, may continue the license for such period and upon such terms and with such royalties as it shall find to be just and reasonable.

(g) Any enemy, or ally of enemy, may institute and prosecute suits in equity against any person other than a licensee under this Act to

enjoin infringement of letters patent, trade-mark, print, label, and copyrights in the United States owned or controlled by said enemy or ally of enemy, in the same manner and to the extent that he would be entitled so to do if the United States was not at war: *Provided*, That no final judgment or decree shall be entered in favor of such enemy or ally of enemy by any court except after thirty days' notice to the alien property custodian. Such notice shall be in writing and shall be served in the same manner as civil process of Federal courts.

(h) All powers of attorney heretofore or hereafter granted by an enemy or ally of enemy to any person within the United States, in so far as they may be requisite to the performance of acts authorized in subsections (a) and (g) of this section, shall be valid.

(i) Whenever the publication of an invention by the granting of a patent may, in the opinion of the President, be detrimental to the public safety or defense, or may assist the enemy or endanger the successful prosecution of the war, he may order that the invention be kept secret and withhold the grant of a patent until the end of the war: *Provided*, That the invention disclosed in the application for said patent may be held abandoned upon it being established before or by the Commissioner of Patents that, in violation of said order, said invention has been published or that an application for a patent therefor has been filed in any other country, by the inventor or his assigns or legal representatives, without the consent or approval of the commissioner or under a license of the President.

When an applicant whose patent is withheld as herein provided and who faithfully obeys the order of the President above referred to shall tender his invention to the Government of the United States for its use, he shall, if he ultimately receives a patent, have the right to sue for compensation in the Court of Claims, such right to compensation to begin from the date of the use of the invention by the Government.

SEC. 11. Whenever during the present war the President shall find that the public safety so requires and shall make proclamation thereof it shall be unlawful to import into the United States from any country named in such proclamation any article or articles mentioned in such proclamation except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: *Provided, however*, That no preference shall be given to the ports of one State over those of another.

SEC. 12. That all moneys (including checks and drafts payable on demand) paid to or received by the alien property custodian pursuant to this Act shall be deposited forthwith in the Treasury of the United States, and may be invested and reinvested by the Secretary of the Treasury in United States bonds or United States certificates of indebtedness, under such rules and regulations as the President shall prescribe for such deposit, investment, and sale of securities; and as soon after the end of the war as the President shall deem practicable, such securities shall be sold and the proceeds deposited in the Treasury.

All other property of an enemy, or ally of enemy, conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder shall be safely held and administered by him except as here-

inafter provided; and the President is authorized to designate as a depository, or depositaries, of property of an enemy or ally of enemy, any bank, or banks, or trust company, or trust companies, or other suitable depository or depositaries, located and doing business in the United States. The alien property custodian may deposit with such designated depository or depositaries, or with the Secretary of the Treasury, any stocks, bonds, notes, time drafts, time bills of exchange, or other securities, or property (except money or checks or drafts payable on demand which are required to be deposited with the Secretary of the Treasury) and such depository or depositaries shall be authorized and empowered to collect any dividends or interest or income that may become due and any maturing obligations held for the account of such custodian. Any moneys collected on said account shall be paid and deposited forthwith by said depository or by the alien property custodian into the Treasury of the United States as hereinbefore provided.

The President shall require all such designated depositaries to execute and file bonds sufficient in his judgment to protect property on deposit, such bonds to be conditioned as he may direct.

The alien property custodian shall be vested with all of the powers of a common-law trustee in respect of all property, other than money, which shall come into his possession in pursuance of the provisions of this Act, and, acting under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe, may manage such property and do any act or things in respect thereof or make any disposition thereof or of any part thereof, by sale or otherwise, and exercise any rights which may be or become appurtenant thereto or to the ownership thereof, if and when necessary to prevent waste and protect such property and to the end that the interests of the United States in such property and rights or of such person as many ultimately become entitled thereto, or to the proceeds thereof, may be preserved and safeguarded. It shall be the duty of every corporation incorporated within the United States and every unincorporated association, or company, or trustee, or trustees within the United States issuing shares or certificates representing beneficial interests to transfer such shares or certificates upon its, his, or their books into the name of the alien property custodian upon demand, accompanied by the presentation of the certificates which represent such shares or beneficial interests. The alien property custodian shall forthwith deposit in the Treasury of the United States, as hereinbefore provided, the proceeds of any such property or rights so sold by him.

Any money or property required or authorized by the provisions of this Act to be paid, conveyed, transferred, assigned, or delivered to the alien property custodian shall, if said custodian shall so direct by written order, be paid, conveyed, transferred, assigned, or delivered to the Treasurer of the United States with the same effect as if to the alien property custodian.

After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the alien property custodian or deposited in the United States Treasury, shall be settled as Congress shall direct: *Provided, however,* That an order

of the President as set forth in section nine hereof, or of the court, as set forth in sections nine and ten hereof, the alien property custodian or the Treasurer of the United States, as the case may be shall forthwith convey, transfer, assign, and pay to the person to whom the President shall so order, or in whose behalf the court shall enter final judgment or decree, any property of an enemy or ally of enemy held by said custodian or by said Treasurer, so far as may be necessary to comply with said order of the President or said final judgment or decree of the court: *And provided further*, That the Treasurer of the United States, on order of the alien property custodian, shall, as provided in section ten hereof, repay to the licensee any funds deposited by said licensee.

SEC. 13. That, during the present war, in addition to the facts required by sections forty-one hundred and ninety-seven, forty-one hundred and ninety-eight, and forty-two hundred of the Revised Statutes, as amended by the Act of June fifteenth, nineteen hundred and seventeen, to be set out in the master's and shipper's manifests before clearance will be issued to vessels bound to foreign ports, the master or person in charge of any vessel, before departure of such vessel from port, shall deliver to the collector of customs of the district wherein such vessel is located a statement duly verified by oath that the cargo is not shipped or to be delivered in violation of this Act, and the owners, shippers, or consignors of the cargo of such vessels shall in like manner deliver to the collector like statement under oath as to the cargo or the parts thereof laden or shipped by them, respectively, which statement shall contain also the names and addresses of the actual consignees of the cargo, or if the shipment is made to a bank or other broker, factor, or agent, the names and addresses of the persons who are the actual consignees on whose account the shipment is made. The master or person in control of the vessel shall, on reaching port of destination of any of the cargo, deliver a copy of the manifest and of the said master's, owner's, shipper's, or consignor's statement to the American consular officer of the district in which the cargo is unladen.

SEC. 14. That, during the present war, whenever there is reasonable cause to believe that the manifest or the additional statements under oath required by the preceding section are false or that any vessel, domestic or foreign, is about to carry out of the United States any property to or for the account or benefit of an enemy, or ally of enemy, or any property or person whose export, taking out, or transport will be in violation of law, the collector of customs for the district in which such vessel is located is hereby authorized and empowered, subject to review by the President to refuse clearance to any such vessel, domestic or foreign, for which clearance is required by law, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, to forbid the departure of such vessel from the port, and it shall thereupon be unlawful for such vessel to depart.

The collector of customs shall, during the present war, in each case report to the President the amount of gold or silver coin or bullion or other moneys of the United States contained in any cargo intended

for export. Such report shall include the names and addresses of the consignors and consignees, together with any facts known to the collector with reference to such shipment and particularly those which may indicate that such gold or silver coin or bullion or moneys of the United States may be intended for delivery or may be delivered, directly or indirectly, to an enemy or an ally of enemy.

SEC. 15. That the sum of \$450,000 is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, to be used in the discretion of the President for the purpose of carrying out the provisions of this Act during the fiscal year ending June thirtieth, nineteen hundred and eighteen, and for the payment of salaries of all persons employed under this Act, together with the necessary expenses for transportation, subsistence, rental of quarters in the District of Columbia, books of reference, periodicals, stationery, typewriters and exchanges thereof, miscellaneous supplies, printing to be done at the Government Printing Office, and all other necessary expenses not included in the foregoing.

SEC. 16. That whoever shall willfully violate any of the provisions of this Act or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this Act shall, upon conviction, be fined not more than \$10,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States.

SEC. 17. That the district courts of the United States are hereby given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this Act, with a right of appeal from the final order or decree of such court as provided in sections one hundred and twenty-eight and two hundred and thirty-eight of the Act of March third, nineteen hundred and eleven, entitled "An Act to codify, revise, and amend the laws relating to the judiciary."

SEC. 18. That the several courts of first instance in the Philippine Islands and the district court of the Canal Zone shall have jurisdiction of offenses under this Act committed within their respective districts, and concurrent jurisdiction with the district courts of the United States of offenses under this Act committed upon the high seas and of conspiracies to commit such offenses as defined by section thirty-seven of the Act entitled "An Act to codify, revise, and amend the penal laws of the United States," approved March fourth, nineteen hundred and nine, and the provisions of such section for the purpose of this Act are hereby extended to the Philippine Islands and to the Canal Zone.

SEC. 19. That ten days after the approval of this Act and until the end of the war, it shall be unlawful for any person, firm, corporation, or association, to print, publish, or circulate, or cause to be printed, published, or circulated in any foreign language, any news item, edi-

torial or other printed matter, respecting the Government of the United States, or of any nation engaged in the present war, its policies, international relations, the state or conduct of the war, or any matter relating thereto: *Provided*, That this section shall not apply to any print, newspaper, or publication where the publisher or distributor thereof, on or before offering the same for mailing, or in any manner distributing it to the public, has filed with the postmaster at the place of publication, in the form of an affidavit, a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper, or publication, and has caused to be printed, in plain type in the English language, at the head of each such item, editorial, or other matter, on each copy of such print, newspaper, or publication, the words "True translation filed with the postmaster at _____ on _____ (naming the post office where the translation was filed, and the date of filing thereof) as required by the Act of _____ (here giving the date of this Act)."

Any print, newspaper, or publication in any foreign language which does not conform to the provisions of this section is hereby declared to be nonmailable, and it shall be unlawful for any person, firm, corporation, or association, to transport, carry, or otherwise publish or distribute the same, or to transport, carry or otherwise publish or distribute any matter which is made nonmailable by the provisions of the Act relating to espionage, approved June fifteenth, nineteen hundred and seventeen: *Provided further*, That upon evidence satisfactory to him that any print, newspaper, or publication, printed in a foreign language may be printed, published, and distributed free from the foregoing restrictions and conditions without detriment to the United States in the conduct of the present war, the President may cause to be issued to the printers or publishers of such print, newspaper, or publication, a permit to print, publish, and circulate the issue or issues of their print, newspaper, or publication, free from such restrictions and requirements, such permits to be subject to revocation at his discretion. And the Postmaster General shall cause copies of all such permits and revocations of permits to be furnished to the postmaster of the post office serving the place from which the print, newspaper, or publication, granted the permit is to emanate. All matter printed published and distributed under permits shall bear at the head thereof in plain type in the English language, the words, "Published and distributed under permit authorized by the Act of _____ (here giving date of this Act), on file at the post office of _____ (giving name of office)."

Any person who shall make an affidavit containing any false statement in connection with the translation provided for in this section shall be guilty of the crime of perjury and subject to the punishment provided therefor by section one hundred and twenty-five of the Act of March fourth, nineteen hundred and nine, entitled "An Act to codify, revise, and amend the penal laws of the United States," and any person, firm, corporation, or association, violating any other requirement of this section shall, on conviction thereof, be punished by a fine of not more than \$500, or by imprisonment of not more than one year, or, in the discretion of the court, may be both fined and imprisoned.

2. Conference Report¹

Trading With the Enemy, House Report No. 155, 65th Congress, 1st Session,
Conference Report To Accompany H.R. 4960, September 21, 1917

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4960) to define, regulate, and punish trading with the enemy, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 68, 128, and 129.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 9, 13, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 28, 30, 31, 32, 33, 34, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 66, 69, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 103, 104, 106, 107, 108, 110, 111, 112, 113, 114, 117, 119, 121, 122, 124, 125, and 126, and agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows: In the last line of the Senate amendment strike out “, and private bankers”; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lieu of the matter proposed by the Senate amendment insert the following:

SEC. 3. That it shall be unlawful—

(a) *For any person in the United States, except with the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in this Act, to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.*

(b) *For any person, except with the license of the President, to transport or attempt to transport into or from the United States, or for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place, any subject or citizen of an enemy or ally of enemy*

¹ The Senate version of the Conference Report, Senate Document No. 110 dated September 22, 1917, is identical to House Report No. 155, except that the “Statement of the Managers on the Part of the House” is omitted.

nation, with knowledge or reasonable cause to believe that the person transported or attempted to be transported is such subject or citizen.

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, or bring into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit out of the United States, any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy: Provided, however, That any person may send, take, or transmit out of the United States anything herein forbidden if he shall first submit the same to the President, or to such officer as to President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

(d) Whenever, during the present war, the President shall deem that the public safety demands it, he may cause to be censored under such rules and regulations as he may from time to time establish, communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall be punished as provided in section sixteen of this Act.

And the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: .

On page 4, in line 2 of the Senate amendment, strike out the word "other."

On page 4, in line 9 of the Senate amendment, after the word "otherwise," insert a comma.

On page 4, in the line 10 of the Senate amendment, after the word "time," insert a comma.

On page 4, in line 13 of the Senate amendment, after the word "company," insert a comma; and in the same line after the word "enemy" where it occurs the second time insert a comma.

On page 4, in line 15 of the Senate amendment, after the words "United States," strike out the comma and insert a semicolon.

On page 5, in line 4 of the Senate amendment, strike out the words "or treaty,"; in line 7 strike out the words "or treaty"; and in line 9 strike out the words "or treaty"; in line 11, after the word "Act," insert a comma; in line 12, after the word "President," insert a comma; and in line 13, after the word "enemy," strike out the comma.

On page 6, in line 5 of the Senate amendment, after the word "company," insert a comma; in line 6, after the word "granted," insert a comma; in line 13, after the word "Act," insert a comma; in line 14, after the word "President," insert a comma; and in line 22 strike out "fifteen" and insert the word *sixteen*.

On page 7, in line 9 of the Senate amendment, strike out "fifteen" and insert the word *sixteen*; in line 10, after the word "or," insert *to and*; in line 18, after the word "company," insert a comma; and in line 20, after the word "pay," strike out the comma.

On page 8, in line 5 of the Senate amendment, after the word "custodian," insert the words, *hereinafter provided for*,

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows:

On page 7, line 3 of the bill, after the word "That" insert: , *during the present war*,; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows:

In line 1 of the proposed amendment, after the word "Whenever," insert: , *during the present war*,; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows:

On page 9, line 21, of the proposed amendment as engrossed, strike out "suspension" and insert *postponement*

On page 9, after line 23, of the proposed amendment strike out the balance of the amendment and insert the following:

(b) *That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, export or earmarkings of gold or silver coin or bullion or currency, transfers of credit in any form (other than credits relating solely to transactions to be executed wholly within the United States), and transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country, whether enemy, ally of enemy or otherwise, or between residents of one or more foreign countries, by any person within the United States; and he may require any such person engaged in any such transaction to furnish, under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed*

And the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows:

On page 7, line 25 of the bill, after the word "President" strike out the comma; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows:

On page 9, line 13 of the bill, after the word "President" strike out the comma; and the Senate will agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows:

In lieu of the matter proposed by the Senate amendment insert the following: *known to be, or whom the representative of such corporation, association, company, or trustee has reasonable cause to believe to be*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows:

On page 13, in line 11, of the amendment, after the word "Act" insert a comma; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment as follows:

On page 11, in line 19, of the bill, after the word "President" strike out the comma; and the Senate agreed to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment as follows:

In line 10, page 19, of the amendment, strike out the words "the laws of the State" and insert *law*.; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment as follows:

On page 19, in line 10 of the bill, after the word "may" insert, *when duly authorized by the President*.; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment as follows:

On page 19, in line 21 of the bill strike out "who desires" and insert *desiring*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows:

On page 20, line 4 of the bill, after the word "as" strike out "it" and insert the word *he*

On the same page, in line 5 of the bill, after the word "provided" strike out "it" and insert the word *he*

And the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows:

In lieu of the matter proposed by the Senate amendment insert the following: , *including the fixing of prices of articles and products necessary to the health of the Military and Naval forces of the United States or the successful prosecution of the war;* and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment as follows:

On page 21, line 23 of the bill, after the word "expiration" strike out "the" and insert *one*.

In the same line, after the word "thereafter" insert a comma.

And the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment as follows:

On page 24, in line 16 of the bill, after the word "President" strike out the comma; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows:

On page 25, in line 3 of the bill, strike out the word "such"; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment as follows:

In line 6, page 29 of the amendment, strike out the words "in like manner as though he were the absolute owner thereof," and insert the following: *if and when necessary to prevent waste and protect such property and;* and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows:

On page 26, in lines 19 and 20 of the bill, strike out the words "(or such other officer as the President shall direct)"; and the Senate agree to the same.

Amendment numbered 116:

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows:

On pages 26, in line 23, of the bill insert the following: , *during the present war*,; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment as follows:

On page 27, line 23, of the bill insert the following: , *during the present war*,; and the Senate agree to the same.

Amendment numbered 120:

That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment as follows:

In the first line of the amendment proposed by the Senate after the word "shall" insert: , *during the present war*,; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment as follows:

On page 28, line 23, of the bill after the word "Stationery" insert the following: *typewriters and exchanges thereof*,; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment as follows:

In lieu of the matter proposed by the Senate amendment insert the following:

SEC. 19. That ten days after the approval of this act and until the end of the war, it shall be unlawful for any person, firm, corporation, or association, to print, publish, or circulate, or cause to be printed, published, or circulated in any foreign language, any news item, editorial, or other printed matter, respecting the Government of the United States, or of any nation engaged in the present war, its policies, international relations, the state or conduct of the war, or any matter relating thereto: Provided, That this section shall not apply to any print, newspaper, or publication where the publisher or distributor thereof, on or before offering the same for mailing, or in any manner distributing it to the public, has filed with the postmaster at the place of publication, in the form of an affidavit, a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper, or publication, and has caused to be printed, in plain type in the English language, at the head of each such item, editorial, or other matter, on each copy of such print, newspaper, or publication, the words "True translation filed with the postmaster at ——— on ——— (naming the post-office where the translation was filed, and the date of filing thereof), as required by the Act of ——— (here giving the date of this Act).

Any print, newspaper, or publication in any foreign language which does not conform to the provisions of this section is hereby declared to be nonmailable, and it shall be unlawful for any person, firm, corporation, or association, to transport, carry, or otherwise pub-

lish or distribute the same, or to transport, carry, or otherwise publish or distribute any matter which is made nonmailable by the provisions of the Act relating to espionage, approved June 15, 1917: Provided further, That upon evidence satisfactory to him that any print, newspaper, or publication, printed in a foreign language may be printed, published, and distributed free from the foregoing restrictions and conditions without detriment to the United States in the conduct of the present war, the President may cause to be issued to the printers or publishers of such print, newspaper, or publication, a permit to print, publish, and circulate the issue or issues of their print, newspaper, or publication, free from such restrictions and requirements, such permits to be subject to revocation at his discretion. And the Postmaster General shall cause copies of all such permits and revocations of permits to be furnished to the postmaster of the post office serving the place from which the print, newspaper, or publication, granted the permit is to emanate. All matter printed, published and distributed under permits shall bear at the head thereof in plain type in the English language, the words, "Published and distributed under permit authorized by the Act of ——— (here giving date of this Act), on file at the post office of ———, (giving name of office).

Any person who shall make an affidavit containing any false statement in connection with the translation provided for in this Act shall be guilty of the crime of perjury and subject to the punishment provided therefor by Section 125 of the Act of March 4, 1909, entitled "An Act to codify, revise, and amend the penal laws of the United States," and any person, firm, corporation, or association, violating any other requirement of this Act shall, on conviction thereof, be punished by a fine of not more than five hundred dollars (\$500), or by imprisonment of not more than one year, or, in the discretion of the Court, may be both fined and imprisoned.

And the Senate agree to the same.

W. C. ADAMSON,
A. J. MONTAGUE,
ARTHUR G. DEWALT,
JOHN J. ESCH,
E. L. HAMILTON,

Managers on the Part of the House.

DUNCAN U. FLETCHER,
JAS. K. VARDAMAN,
JOS. E. RANSDELL,
KNUTE NELSON,
BERT M. FERNALD.

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4960) to define, regulate, and punish trading with the enemy, and for other purposes, submit the following state-

ment in relation to the action agreed upon by the conference committee as to the amendments of the Senate:

Amendment No. 1: This amendment strikes out (1) all of the House provision relating to enemy insurance companies, and (2) also the definition of enemy or ally of enemy found in the proviso of the amendment; but the former portion of the amendment finds a substitute in Senate amendment No. 11, hereafter to be noticed.

Amendments Nos. 2, 3, 5, and 6 more clearly define the meaning of the word "citizen" used in the bill.

Amendment No. 4 strikes out the same definition referred to in amendment No. 1.

Amendment No. 7 defines more clearly what is meant by the words "end of the war."

Amendment No. 8: The definition of the words "bank or banks" is accepted by the House conferees, with an amendment excluding therefrom "private bankers."

Amendment No. 9 enlarges the definition of "trading" to include "loans or extension of credits."

Amendment No. 10: The House recedes from its disagreement and agrees to the same with an amendment, which—

(a) Includes, comprehensively, such persons as are prohibited from trading as defined in the act, with knowledge or reasonable cause to believe that the person with whom the trade is carried on is an enemy or ally of enemy, except with license. It should be especially noted that the President is generally substituted by the Senate amendments to perform directly or indirectly the functions assigned to the Secretary of Commerce, the Secretary of the Treasury, the Federal Trade Commission, and other officers.

(b) This is substantially an enlargement of the House provision forbidding any person to transport or attempt to transport into or from the United States, or for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place any subject or citizen of an enemy or ally of enemy with knowledge or reasonable cause to believe that such person transported or attempted to be transported is such subject or citizen.

(c) This paragraph contains two substantive provisions: (1) It is unlawful to send or attempt to send, take out, or bring into the United States any letter, writing, or other tangible form of communication, except in the regular course of the mail; or to send, take, or transmit, or attempt to send, take, or transmit out of the United States any letter or other writing, book, map, plan, or other paper, picture, or telegram, cablegram, or wireless message, or any other form of communication intended to be delivered directly or indirectly to the enemy or ally of enemy: *Provided, however*, That the act or acts forbidden may be performed if first submitted to the President, or to such officers as he may direct, and license or consent therefore obtained.

(d) This paragraph gives the President authority during the war, when the public safety demands it, to censor, under appropriate rules and regulations, communications by mail, cable, radio, or other means of transmission between the United States and any

foreign country which he may from time to time specify, or which may be carried by vessel or other means of transportation, and prescribing pains and penalties for violations thereof. It should be noted, however, that the censorship does not extend in this paragraph in any way to newspapers or other publications.

Amendments Nos. 11, 12, 14, 15, and 17 are formal in character and tend to clarify the text.

Amendment Nos. 13 and 16 substitute the President for the Secretary of Commerce.

Amendment No. 18: (a) Elaborates the provisions of the House bill containing prohibitions against trade save and except in pursuance of licenses, and gives the President full authority over the same.

(b) This amendment contains a new subject matter, giving the President authority to investigate, regulate, or prohibit, under appropriate rules and regulations, transactions in foreign exchange, export, or earmarking of coin, or bullion, or currency, and generally the subject of transfers of indebtedness or ownership of property between the United States and any foreign country whether enemy or neutral, or between residents of one or more foreign countries and any person in the United States; and the President may require any information in relation thereto, including the production of books, accounts, letters, etc.

Amendments Nos. 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31 are unimportant save for the substitution of the President for the Secretary of Commerce, and with the exception of No. 24, which forbids acceptance of voluntary official service.

Amendments Nos. 32 and 33: Fix February 3, 1917, as the date from which disclosures and reports of enemy stock, shares and property shall be made.

Amendment No. 34 empowers the President to extend the time in which such reports shall be made, as well as the inquisitorial jurisdiction of the alien property custodian and the President.

Amendment No. 35 enlarges the scope of the invalidity of conveyances, transfers, assignments, etc., contemplated by subsection b, section 7 of the House bill.

Amendment No. 37 expands and carries into detail the provisions of subsection c, section 7 of the House bill.

Amendments Nos. 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, and 51 do not materially change the House bill save to bring the amended sections into conformity with the text of the bill.

Amendment No. 52 is receded from and concurred in with an amendment which elaborates section 8 of the House bill, and perhaps consummates the purpose designed by the original text.

Amendments Nos. 54, 55, 56, 57, 58, 59, and 60 revise the interpleader rights of interested parties as provided in section 9 of the House bill.

Amendment No. 61 is wholly stricken out.

Amendments Nos. 62, 63, 64, 65, 66, 67, 69, 70, 71, and 72 are mainly necessary for uniformity and clarity.

Amendment No. 68 is wholly receded from by the Senate.

Amendment No. 73 concurred in by the House conferees with an amendment confining the fixing of prices to articles and products necessary to the health of the Army and Navy or the successful prosecution of war.

Amendment No. 74 provides that licenses shall be defense to suits in relation to the subject matter of such licenses.

Amendments Nos. 76 to 98, inclusive, are necessitated by reason of the changes heretofore referred to, and to preserve unity and clarity in the text.

Amendment No. 99 authorizes the President to keep secret and withhold publication of inventions or patents until the end of the war if the publication of such inventions may assist the enemy or endanger the successful prosecution of the war.

Amendment No. 100 authorizes the President to place an embargo upon all imports into the United States, in pursuance of proclamation and under such regulations as he may prescribe, giving no preference, however, to the ports of one State over those of another.

Amendments Nos. 101 to 108, inclusive, relate to the substitution of the President for the heads of the departments, and punctuation and slight verbal changes necessary for the continuity of the text.

Amendment No. 109 deals with the powers to be exercised by the alien property custodian, and the duty of corporations, associations, companies, and trustees within the United States to transfer shares and certificates upon their books to the alien property custodian upon his demand, and under certain conditions.

Amendments Nos. 110 to 119, inclusive, are formal in character and intended to perfect the text. The same may be said of any other amendments, not specifically noted in this statement.

Amendment No. 120 requires the collector of customs to report to the President the amount of gold or silver coin or bullion or other moneys contained in any cargo for export, the purpose being to safeguard the delivery of such property directly or indirectly to an enemy or ally of enemy.

Amendments Nos. 121 and 122 increase the sum of appropriation from \$250,000 to \$450,000.

Amendment No. 124 strikes out section 15 of the House bill relating to penal provisions, inserting in lieu thereof section 16 covering the same subject more in detail.

Amendments Nos. 125 and 126 relate to renumbering sections.

Amendment No. 127: This amendment is in relation to printing, publishing, or circulating in any foreign language matter respecting the Government of the United States, etc.

Its provisions are operative 10 days after the approval of this act, and until the end of the war, during which time it shall be unlawful for any person, firm, corporation, or association to print, publish, or circulate, or cause to be printed, published, or circulated, in any foreign language, news items, editorials, or other printed matter respecting the Government of the United States, or of any nation engaged in the present war, or their policies, international relations, state, or conduct of the war, or any matter relating thereto. This section shall not apply where the publisher or distributor on or before mailing or distributing the article, has filed with the postmaster at the place of publication a true and complete translation of the entire article, as provided more in detail in the amendment.

Any print, newspaper, or publication which does not conform to the requirement as to translation, etc., makes the matter nonmailable, and it becomes unlawful not only to mail but to transport, carry, or otherwise publish or distribute such matter.

But the President is authorized to issue permits for such publications, which, however, are subject to revocation.

Amendments Nos. 128 and 129 are receded from by the Senate conferees.

W. C. ADAMSON,
A. J. MONTAGUE,
A. G. DEWALT,
JOHN J. ESCH,
EDWARD L. HAMILTON,

Managers on the Part of the House.

3. Senate Debate (Excerpts)

[55 Cong. Rec. 6949-6950, 6957-6958, 7015-7018, September 11-12, 1917]

* * * * *

TRADING WITH THE ENEMY

Mr. FLETCHER. Mr. President, I move that the Senate proceed to the consideration of the bill (H.R. 4960) to define, regulate, and punish trading with the enemy, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments.

Mr. FLETCHER. I ask unanimous consent that the formal reading of the bill be dispensed with, that the bill be read for amendments, and that the committee amendments be first considered.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida? The Chair hears none, and it will be so ordered.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Commerce was, in section 2, page 2, line 7, after the word "territory," to strike out:

Provided, That nothing in this act shall impair or affect the President's proclamation of April 6, 1917, or any amendment, modification, or revocation thereof, in relation to the branches of enemy or ally of enemy insurance companies in the United States, when such branches are under the management of citizens of the United States, and such branches, and the managers and trustees thereof, shall be subject to license by the Secretary of Commerce regulating the business thereof and the control and disposition of the funds thereof, subject to rules and regulations prescribed by the Secretary of Commerce, with the approval of the President: *Provided further*, That the definition of "enemy" in this subdivision shall not include any person outside the United States residing outside of the territory of any nation, or ally of any nation, with which the United States is at war, in so far as such person does business with neutrals, allies of the United States, or with the Government or people of the United States, and such business is not connected directly or indirectly with any business done by such person within the territory of any nation or ally of any nation with which the United States is at war.

So as to make the clause read:

SEC. 2. That the word "enemy," as used herein, shall be deemed to mean, for the purposes of such trading and of this act—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory.

The amendment was agreed to.

The next amendment was, on page 3, line 8, after the words "may be", to strike out "citizens" and insert "natives, citizens"; and in

line 9, after the word "war," to insert "other than citizens of the United States," so as to make the clause read:

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy."

The amendment was agreed to.

The next amendment was, on page 3, line 25, after the word "territory," to strike out:

Provided, That the definition of "ally of enemy" in this subdivision shall not include any person outside the United States residing outside of the territory of any nation or ally of any nation with which the United States is at war, in so far as such person does business with neutrals, allies of the United States, or with the Government or people of the United States, and such business is not connected directly or indirectly with any business done by such person within the territory of any nation or ally of any nation with which the United States is at war.

So as to make the clause read:

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation which is an ally of a nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of such ally nation, or incorporated within any country other than the United States and doing business within such territory.

The amendment was agreed to.

The next amendment was, on page 4, line 16, after the words "may be," to strike out "citizens," and insert "natives, citizens"; and in line 18, after the word "war," to insert "other than citizens of the United States," so as to make the clause read:

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation which is an ally of a nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "ally of enemy."

The amendment as agreed to.

The next amendment was, on page 5, line 10, after the word "date," to insert "of proclamation," so as to make the clause read:

The words "end of the war," as used herein, shall be deemed to mean the date of proclamation of exchange of ratifications of the treaty of peace, unless the President shall, by proclamation, declare a prior date, in which case the date so proclaimed shall be deemed to be the "end of the war" within the meaning of this act.

The amendment was agreed to.

The next amendment was, on page 5, after line 14, to insert:

The words "bank or banks" as used herein, shall be deemed to mean and include national banks, State banks, trust companies, or other banks or banking associations doing business under the laws of the United States, or of any State of the United States, and private bankers.

The amendment was agreed to.

The next amendment was, on page 6, line 3, after the word "sell," to insert "loan or extend credit," so as to make the clause read:

(d) Buy or sell, loan or extend credit, trade in, deal with, exchange, transmit, transfer, assign, or otherwise dispose of, or receive any form of property.

The amendment was agreed to.

The next amendment was, on page 6, after line 7, to strike out :

SEC. 3. That it shall be unlawful for any person in the United States, except with the license of the Secretary of Commerce, as hereinafter provided in section 5—

(a) To trade, or attempt to trade, with an enemy, or for, or on account of, or on behalf of, or for the benefit of an enemy, either directly or indirectly, with knowledge or reasonable cause to believe that the person with or for, or on account of, or on behalf of, or for the benefit of whom such trade is conducted, or attempted to be conducted, is an enemy.

(b) To trade, or attempt to trade, with an ally of enemy, or for, or on account of, or on behalf, or for the benefit of, an ally of enemy, either directly or indirectly, with knowledge or reasonable cause to believe that the person with or for, or on account of, or on behalf of, or for the benefit of whom such trade is conducted, or attempted to be conducted, is an ally of enemy.

(c) To transport, or attempt to transport, an enemy, with knowledge or reasonable cause to believe that the person transported, or attempted to be transported, is an enemy.

(d) To transport, or attempt to transport, an ally of enemy, with knowledge or reasonable cause to believe that the person transported, or attempted to be transported, is an ally of enemy.

And insert :

SEC. 3. That it shall be unlawful—

(a) For any person in the United States, except with the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in this act, to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or an account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

(b) For any person, except with the license of the President, or of such person as he may direct, to transport or attempt to transport into or from the United States any subject or citizen of an enemy or ally of enemy nation, with knowledge or reasonable cause to believe that the person transported or attempted to be transported is such subject or citizen.

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, or bring into, or to attempt to send, or take out of, or bring into, the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit, out of the United States, any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy: *Provided, however,* That any person may send, take, or transmit out of the United States anything hereinbefore forbidden if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President or of such other officer, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

The PRESIDING OFFICER (Mr. Kirby in the chair). The question is on the amendment of the committee striking out section 3 of the bill and inserting section 3, as proposed by the committee as just read. Is there objection? The Chair hears none, and the amendment is agreed to.

Mr. REED. Mr. President, before section 3 as reported by the committee is agreed to I desire to say that it seems to me that the language

in lines 15 to 17, on page 7, may be too broad and sweeping. I call the attention of the Senator in charge of the bill to this language:

Any other person with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy—

The term "reasonable cause" is one that is pretty comprehensive; and, as this is to be a penal statute, I inquire whether or not we can not employ some phrase a little more conservative than that?

In times of great excitement, as we all know, it may be that a jury would take something as reasonable cause and send somebody to the penitentiary when a man had no evil purpose or intent. I suggest that that section be passed over and that a little further consideration be given to it.

Mr. RANDELL. I have no objection.

The PRESIDING OFFICER. It will be passed over.

Mr. REED. I wish to say, so that I will not be misunderstood, that no one can go further than I am willing to go—

The PRESIDING OFFICER. The Chair announced that the section was agreed to without objection. If the Senator will move to reconsider it, that motion will be entertained.

Mr. RANDELL. I move that it be reconsidered.

The PRESIDING OFFICER. It is moved that the proposed amendment be reconsidered, and, without objection, it is reconsidered.

Mr. REED. I desire to say just this much, so that I will not be misunderstood: No one could go further than I am willing to go to make it impossible for information to be sent to the enemy, and no one will go further than I am willing to go to punish every act that is calculated to give aid or comfort to the enemy. It is, perhaps, for that reason more than any other that I desire that we shall be careful not to draw our statutes so loosely that they may work hardships and thus result in a failure to enforce them.

The PRESIDING OFFICER. Without objection, the amendment is passed over. The next amendment of the committee will be stated.

* * * * *

The next amendment was, in section 5, line 13, before the word "That," to insert "(a)"; in line 18, after the word "and," to strike out "the Secretary of Commerce may, under the direction of"; in line 19, before the word "grant," to insert "may"; and in line 20, after the word "general," to strike out "to any person or class of persons, to perform any act made unlawful in section 3 of this act without such license, if he shall be of opinion that such grant shall be compatible with the safety of the United States and with the successful prosecution of the war, and he may, with the approval of the President, make such rules and regulations not inconsistent with law as may be necessary and proper to carry out the provisions of this act," and insert:

temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section 4 hereof, and to perform any act made unlawful without such license in section 3 hereof, and to file and prosecute applications under subsection (b) of section 10 hereof; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and

proper to carry out the provisions of this act; and such other officer, or officers, as the President shall direct, shall have similar powers to grant licenses under subsections (b) and (c) of section 3 hereof and to make rules and regulations thereunder, with the approval of the President.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section 3 hereof, he shall have authority to order the suspension of the performance of such act for a period not exceeding 90 days, pending investigation of the facts by him.

(b) No investigation or examination of any bank shall be made, except through the Secretary of the Treasury or the Federal Reserve Board.

(c) That the President may investigate, under such rules and regulations as he may prescribe, any transaction in foreign exchange, export of gold or silver coin or bullion, and transfer of credit in any form (other than credits relating solely to transactions to be executed wholly within the United States) by any bank; and he may require any person engaged in such transaction to furnish complete information relative thereto, including the production of any books of account, contracts, letters, or other papers in connection therewith in the custody or control of such person, either before or after such transaction is completed. Whenever it shall appear to the President that the export of any gold or silver coin or bullion or of any moneys of the United States may result in violation of the provisions of this act, he may cause notice to be served on the parties in interest to withhold such export for a period not exceeding 90 days pending investigation of the facts by him.

So as to make the section read:

SEC. 5. (a) That the President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this act so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section 4 hereof, and to perform any act made unlawful without such license in section 3 hereof, and to file and prosecute applications under subsection (b) of section 10 hereof, etc.

Mr. RANDELL. On page 14, line 15, I move to strike out, after the word "at" and the semicolon down to and inclusive of the word "President," on line 19, in the following words: "and such other officer, or officers, as the President shall direct, shall have similar powers to grant licenses under subsections (b) and (c) of section 3 hereof and to make rules and regulations thereunder, with the approval of the President," and to insert in lieu thereof, beginning after the word "act," in line 15, and after the semicolon, the following: "and the President may exercise any power or authority conferred by this act through such officer, or officers, as he shall direct."

The PRESIDING OFFICER (Mr. King in the chair). The question is on agreeing to the amendment of the Senator from Louisiana to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

* * * * *

The VICE PRESIDENT. The amendment passed over will be stated.

The SECRETARY. Amendment inserting section 3, page 6, passed over at the request of the Senator from Missouri [Mr. Reed.]

Mr. REED. Mr. President, let me state that matter for the benefit of the Senators who are present. The first part of the section proposed to be inserted reads:

SEC. 3. That it shall be unlawful—

(a) For any person in the United States, except with the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in

this act, to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf, or for the benefit of, any other person with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

The language that I call attention to is found in line 16, "or reasonable cause to believe." I confess that I am somewhat puzzled to know just how the thought in the framer's mind could be expressed with greater safety, but to say that a man can be held because he has merely reasonable cause to believe may be quite a dangerous thing. The question of what is a reasonable cause would be left to a jury.

Mr. POMERENE. On what page is that?

Mr. REED. I am reading from page 7, and I call the Senator's attention to line 16. In a time of great excitement a jury might think something to have been reasonable cause which would never have occurred to the defendant as any cause at all. What might put a man of shrewd temperament and experience upon notice might to an inexperienced man be no notice at all.

The inquiry I make is whether the word "knowledge" is not sufficient, because as a matter of law if a man knows enough to practically amount to proof it is equivalent to knowledge itself of the ultimate fact.

I do not know how I can make this plainer than I have in this somewhat meager statement. A munitions expert might be fully advised with relation to munitions of some dangerous condition because he learned some one fact.

A man unacquainted with that business might not get any notice from the fact. The term "reasonable cause" or the term "reasonable notice" is to be determined by what the ordinary prudent man would have known or understood under the same circumstances. It may be the best phrase possible, but I think we can get along without it.

Mr. FLETCHER. I suggest to the Senator in this connection that I think his observations are entirely sound. The purpose, I think, was to cover cases where one might have information, might be absolutely advised that the person with whom he is dealing is an enemy or the ally of an enemy, but still he might not know it as a fact. He could only have information to that effect. It might be the whole of his information that he is an enemy or ally of an enemy, and yet he might not have positive knowledge. Would the Senator think this language would fit that so as to take the place both of knowledge or reasonable cause to believe? Just so as to any other person who is an enemy or ally of an enemy. It leaves it open to proof as to whether he is or is not, without requiring proof of actual knowledge.

Mr. REED. Let me examine the context and see how that would fit in.

Mr. POMERENE. May I suggest to the Senators who are discussing this question, would it not improve the language somewhat if they would make it read "with the knowledge or means of knowledge that such other person is an enemy or ally of an enemy"?

Mr. REED. I am afraid not. The Senator suggests "means of knowledge." What does that mean? We are going to try a citizen for this offense. He is charged with possessing the means of knowledge. What are the means of knowledge? It is anything that he could employ to

ascertain, to find out. It seems to me that that suggestion would be dangerous.

Mr. POMERENE. Of course, it all resolves itself into a question of fact, if he had the means or reasonable means of knowledge which would enable him to inform himself. Every fair-minded citizen ought to be on his guard lest he be doing something which might inure to the benefit of the enemy. I think under normal conditions the criticism of the Senator from Missouri is sound. Possibly the language here is not as explicit as it should be.

Mr. REED. Let me suggest this to the Senator from Ohio and the Senators from Florida and Louisiana. It seems to me that if the section was made to read in this way it would probably cure the defect: "For any person in the United States except," and so forth, "willfully to trade with any other person who is an enemy or ally of enemy of the United States."

Mr. RANSDELL. "Willfully" would come after the word "to" in line 13.

Mr. REED. "Willfully to trade or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person who is an enemy or ally of enemy."

Mr. RANSDELL. I suggest to the Senator that it come in in line 15, after the words "for the benefit of," and then skip down to "for the benefit of an enemy." You do not want to say "any other person who is an enemy," because the whole idea is conveyed in the language "for the benefit of an enemy or an ally of enemy."

Mr. REED. That is entirely correct.

Mr. RANSDELL. I am inclined to accept the suggestion to insert the word "willfully" and eliminate the other words. I believe it will go as far as we probably should go.

Mr. REED. "Willfully" means intentionally, of course, and it also—

Mr. POMERENE. The word "knowingly," is used with "willfully."

Mr. REED. I like the word "willfully," because it has a legal meaning. It implies a moral turpitude. It implies that the individual doing it does it with intent and purpose and knowledge. I hope that amendment will be accepted. I will say to Senators nobody can go further than I am willing to go to make this law drastic, but at the same time I should like to make it so that innocent people will not be punished.

Mr. RANSDELL. I understand the Senator to use the word "willful" in the sense of intentional.

Mr. REED. Yes.

Mr. RANSDELL. To do it intentionally.

Mr. REED. Yes.

Mr. RANSDELL. I see no objection to the insertion of the word "willfully."

Mr. REED. I think "willfully" is a much better word in law.

Mr. POMERENE. Let the amendment be stated at the desk.

Mr. RANSDELL. Then, it will read, beginning with line 13, "to willfully trade or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of"; and skip now to line 17, "for the benefit of an enemy or ally of enemy, or is conducting," and so forth.

Mr. REED. That is all right, except that the word "willfully" should precede the word "to," so as to read, "willfully to trade, or attempt to trade." Then the word "willfully" will qualify the whole clause.

Mr. RANDELL. There is no objection to that.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 7 in the committee amendment, line 13, before the words "to trade," insert the word "willfully"; and on lines 15, 16, and 17 strike out the words "any other person with knowledge or reasonable cause to believe that such other person is," so that when amended it will read:

For any person in the United States, except with the license of the President granted to such person, or to the enemy, or ally of enemy, as provided in this act, willfully to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of an enemy or ally of enemy—

And so forth.

Mr. BRANDEGEE. Mr. President, while I, to a certain extent, dislike the phrase to which the Senator from Missouri has alluded, to wit, "reasonable cause to believe," still I hesitate to accept the substitute which he proposes for it. If you strike out of this provision the words "with knowledge or reasonable cause to believe" and make the offense willful trading with an enemy or an ally of an enemy, it is going to be very hard to convict anybody in the way this clandestine trade is conducted through intermediaries and neutrals who are suspected at times. Willfully means that a man actually knows the person is an enemy with whom he is trading and deliberately and willfully makes up his mind to trade with him, to commit an offense.

I venture to say, without accurate knowledge of the statistics on the subject, that a great deal of trade that is very dangerous to this country and very helpful to the enemy is conducted by people who just do not take the pains to make all necessary inquiries—inquiries which they should make—who do not examine into the history and status of the person who comes into their office and wants to buy goods and have them delivered at certain times and places. Much of the trouble with the purchaser or the man who is working for the enemy is caused because he has plenty of cash on hand and pays high prices at once and is willing to make a liberal contract, and the necessary pains are not taken by the would-be seller to make any inquiries which would put him in the position of being a willful offender against the law if he did have the knowledge that he might get.

While, as I have said, I do not exactly like the words "reasonable cause to believe," still this is a criminal statute with heavy fines and penalties, and unless you could prove to a jury of 12 men that the party charged with the offense did really have a reasonable cause to believe I do not think there is much danger in anybody getting wrongly convicted in this country, even if there is some war excitement going on. It will be difficult to find 12 men who will send a man to jail and say he really had reasonable cause to believe that he was trading with the enemy unless he did. After all, as a practical administrative matter, is it any more difficult for a jury to decide what was the reasonable cause to believe than it is for them to decide what is reasonable doubt or what is reasonable conduct, what is reasonable care, or any of those questions?

As I said, I think there is considerable force in the suggestion made by the Senator from Missouri. Still we are trying to win a war and to prevent a despicable and contemptible betrayal of our country by people who are willing to take chances to do it, provided they can sneak through on technicalities and not get caught, and do it for money; and pretty drastic provisions of law are necessary to stop it. I venture to say that many a man who does not care anything about his reputation even if he has any other than a bad one if he could go on making great war profits by doing the country an injury and was advised by an astute lawyer in advance that they never could prove that he willfully did it unless he admitted it himself, if he took certain precautions, would continue that trade, who would not take the chance if these words are left in the bill, as they are now. Therefore I am rather inclined not to support the amendment of the Senator from Missouri.

MR. RANSELL. I do not think there is any practical force in what the Senator says. The people we are trying to reach by the bill are those who intentionally carry on trade with the enemy. As I understand the word "willfully," it is in that sense as applied to a man who knowingly and intentionally carries on trade with the enemy, hoping to derive great profit from that trade or hoping to benefit the enemy by that trade. The innocent person who trades without any intention of violating the law, without any intention of making any special amount of money or without any intention of benefiting the enemy, is really not the person we are after; it is the guilty man, the man who despite the fact that he lives in this country and owes his loyalty and allegiance to this country deliberately and intentionally carries on trade with an enemy or with the ally of an enemy hoping to derive benefit from it, hoping to give the enemy some benefit of it. He is the man we are after, and we will reach, I think, ninety-nine cases certainly out of every hundred if it is worded this way. There is a possibility that we may seriously injure some innocent people if the other language is put in. I believe I prefer the language suggested by the Senator from Missouri myself.

THE VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

* * * * *

MR. RANSELL. Mr. President, I do not know that section 3 has ever been agreed to. We passed it over yesterday and we have just inserted one amendment. I have one or two other amendments to section 3. On page 7, line 22, I offer the amendment which I send to the Secretary's desk.

THE VICE PRESIDENT. The vote by which the amendment was agreed to is, without objection, reconsidered. The Secretary will state the amendment which is now offered by the Senator from Louisiana.

THE SECRETARY. On page 7, line 22, in the committee amendment it is proposed to strike out the words "or of such person as he may direct."

THE VICE PRESIDENT. The amendment to the committee amendment is agreed to, without objection.

MR. RANSELL. I submit the amendment to the same section which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. On page 7, line 23, after the name "United States," it is proposed to insert "or any other owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place."

The VICE PRESIDENT. Without objection, the amendment to the amendment is agreed to.

Mr. RANDELL. On page 8 I submit the amendment to the amendment which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. In section 3, page 8, line 24, it is proposed to strike out the words "or of such other officer."

The VICE PRESIDENT. The amendment to the amendment is agreed to, without objection.

Mr. RANDELL. On the same page, I move the amendment which I send to the desk.

The VICE PRESIDENT. Have all the amendments which are to be offered to section 3 been submitted?

Mr. RANDELL. Yes.

The VICE PRESIDENT. The amendment which is now presented by the Senator from Louisiana, then, is to section 4?

Mr. RANDELL. I beg pardon. I think I have offered all the amendments which I desire to offer to section 3.

The VICE PRESIDENT. Then, in the absence of objection, section 3 as amended is agreed to.

* * * * *

Mr. RANDELL. I now move to reconsider the vote by which section 5 was agreed to; and I offer the amendment to that section which I send to the desk.

The VICE PRESIDENT. Are there any further amendments to section 4?

Mr. RANDELL. I know of no others.

The VICE PRESIDENT. Then as amended the amendment is agreed to.

Mr. BRANDEGEE. Mr. President, I want to call the attention of the Senator from Louisiana to the fact that while he has changed the language on line 16 of page 7 of the bill, to strike out the words "with knowledge or reasonable cause to believe" and has inserted the word "willfully" in a prior part of the section, the same language appears in the next paragraph—paragraph (b)—and he has allowed it to stand. This bill, I assume, has been carefully drawn by the Department of Justice, and the effect of those words has been very carefully calculated. Certainly the same language to describe the willful intent should be used in all of the different paragraphs, and I assume the Department of Justice has adopted a uniform plan throughout the whole bill. I do not, therefore, think it is wise to change it in one respect and not in others. I think we were wrong in changing it in the respect we did.

Mr. RANDELL. This does not relate to trading; this relates to transporting, which is a different thing.

Mr. BRANDEGEE. I know that each section relates to its own subject, of course. It seems to me, however, that there is no ground for making such a distinction as appears to have been made by saying in one case that it shall be a crime for a man willfully to trade with an enemy, but that it will not be necessary to prove a willful attempt to transport an actual enemy, but only that the person accused shall have reasonable cause to believe him to be an enemy. However, I do not care to make any motion on the subject.

Mr. RANDELL. I should not object to such an amendment if the Senator wishes to have it inserted.

Mr. BRANDEGEE. I would not for the life of me think of suggesting it. I should like to have reconsidered the action by which the Senate adopted the amendment of the Senator from Missouri, but I do not suppose I could succeed if I made the effort.

The VICE PRESIDENT. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. In the committee amendment in section 5, which is found at the top of page 15, Mr. Ransdell proposes to strike out subsection (b), being lines 1, 2, and 3 on that page.

The VICE PRESIDENT. The vote whereby the amendment was agreed to is, without objection, reconsidered, and the amendment proposed by the Senator from Louisiana to the amendment is agreed to.

The amendment as amended was agreed to.

Mr. RANDELL. That will necessitate making the next subsection (b) instead of (c).

The VICE PRESIDENT. The amendment suggested by the Senator from Louisiana will be stated.

The SECRETARY. It is proposed to change the designation of the subsection beginning in line 4 to read (b).

The VICE PRESIDENT. Without objection, the amendment to the amendment is agreed to and the amendment as amended is agreed to.

Mr. RANDELL. That concludes the committee amendments, Mr. President.

Mr. FLETCHER. One moment before we pass from that. I think in line 14, page 15, after the word "completed," the remainder of the section should be stricken out.

Mr. RANDELL. There is no objection to that.

Mr. FLETCHER. I move that that be done, because it is covered elsewhere.

The VICE PRESIDENT. The vote whereby the amendment was agreed to is, without objection, again reconsidered. This is the last time that can be done under the rule, as it has been twice reconsidered. Now the Senator from Florida moves the amendment which will be stated.

The SECRETARY. On page 15, beginning with line 14, it is proposed to strike out as follows:

Whenever it shall appear to the President that the export of any gold or silver coin or bullion or of any moneys of the United States may result in violation of the provisions of this act, he may cause notice to be served on the parties in interest to withhold such export for a period not exceeding 90 days pending investigation of the facts by him.

The VICE PRESIDENT. The amendment to the amendment is, without objection, agreed to; and the amendment as amended is agreed to, without objection.

* * * * *

4. House Debate (Excerpts)

[55 Cong. Rec. 4840-4853, 4856-4861, 4863-4866, 4869-4870, July 9, 1917;
55 Cong. Rec. 4907-4926, July 10, 1917]

* * * * *

TRADING WITH THE ENEMY [JULY 9]

Mr. MONTAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 4960) to define, regulate, and punish trading with the enemy, and for other purposes; and pending the motion, Mr. Speaker. I would suggest to my colleague from Wisconsin [Mr. Esch] if we could not agree upon time for general debate.

Mr. ESCH. Mr. Speaker, I have had several requests, and I think we could utilize on our side possibly two hours.

Mr. MONTAGUE. Mr. Speaker, I will say to my colleague from Wisconsin and gentlemen of the House generally, that, so far as I am concerned, and I believe so far as every member of the committee is concerned, our purpose is to have liberal debate under the five-minute rule.

Mr. MANN. Will the gentleman allow me to make a suggestion?

Mr. MONTAGUE. Certainly.

Mr. MANN. I do not think it desirable to commence the reading of the bill under the five-minute rule today. Why not say that general debate shall conclude today, the time to be equally divided between the two gentlemen?

Mr. MONTAGUE. I understood from the gentleman from Wisconsin [Mr. Esch] that two hours on a side would be ample.

Mr. ESCH. Mr. Speaker, since making that statement I have had three additional requests which would make at least two and a half hours, which would take this afternoon.

Mr. MONTAGUE. Then, Mr. Speaker, I submit a unanimous-consent request that general debate on this bill in the Committee of the Whole House on the state of the Union shall close upon adjournment this afternoon.

Mr. MANN. The time to be equally divided.

Mr. MONTAGUE. To be equally divided between my colleague from Wisconsin [Mr. Esch] and myself.

Mr. PARKER of New Jersey. Will the gentleman add to that request an agreement that the debate shall be confined to this bill?

Mr. MANN. I do not think that is necessary. That will be controlled by gentlemen who yield time. Somebody might want to say something else.

Mr. MONTAGUE. I would like to see that, but it seems to be an insuperable obstacle in the progress of the business of this House.

The SPEAKER. The gentleman from Virginia [Mr. Montague] asks unanimous consent that the general debate on this bill close with the

adjournment of the House tonight, one-half to be controlled by himself and one-half by the gentleman from Wisconsin [Mr. Esch]. Is there objection? [After a pause.] The Chair hears none.

The question is on going into the Committee of the Whole House on the state of the Union.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H.R. 4960, with Mr. Byrns of Tennessee in the Chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H.R. 4960, which the Clerk will report.

The Clerk read as follows:

A bill (H.R. 4960) to define, regulate, and punish trading with the enemy, and for other purposes.

Mr. MONTAGUE. Mr. Chairman, I ask unanimous consent that the committee substitute for H.R. 4960 may be considered in lieu of the original bill, with all of the privileges attaching to the original bill. My purpose in making this request is that there were a good many amendments considered in connection with the bill, which the committee adopted, and in order to make the whole bill more convenient for consideration by the House a committee substitute was reported in lieu of the original bill which was agreed upon, as the substitute itself was unanimously agreed upon. And every member, Mr. Chairman, has had a copy.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the committee substitute be considered in lieu of the House bill on the same subject, with all the privileges attaching to the House bill. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object this is a very unusual request. If the committee had a substitute why did they not report it to the House? Here is the original bill reported to the House, and no committee substitute and no amendment reported to the House.

Mr. ADAMSON. I will state to the gentleman that long subsequent to reporting the bill the gentleman having in charge the bill had a meeting of the committee called and submitted a good many committee amendments, and all were merely consolidated in the version of the bill.

Mr. MANN. The gentleman ought to obtain permission to withdraw the report and file a new report with the substitute report submitted to the House.

Mr. ADAMSON. We had it printed and furnished every Member with a copy several days ago, and there are many other copies here.

Mr. MANN. The gentleman says he furnished every Member of Congress with a copy. I was out of the city, but I have been back nearly a week and I have not heard of nor seen any committee substitute.

Mr. ADAMSON. We tried to do so.

Mr. MANN. The gentleman's effort was not very valiant.

Mr. MONTAGUE. I will say to the gentleman from Illinois that when this substitute was offered we expected the consideration of the bill was in the House, and there was no time to formulate another report.

Mr. MANN. There has been plenty of time since.

Mr. MONTAGUE. That is true.

Mr. MANN. I shall object to the request at this time, and suggest to the gentleman that when the committee rises and we go into the House that he ask unanimous consent to have a reprint of the bill with the committee substitute printed in italics in place of the bill, and then probably there will be no objection to considering the substitute. But this is a very important measure. We have the right to have the print that is to be considered before the Members of the House, and not merely up in the committee room.

Mr. ADAMSON. Mr. Chairman, I think that is entirely satisfactory, that we go on with general debate, and on adjournment tonight we ask unanimous consent to have a reprint of the bill, and when we reprint it, we reprint it as pertaining to this subject.

The CHAIRMAN. Objection is heard. The Clerk will read the bill.

Mr. ADAMSON. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to dispense with the first reading of the bill. Is there objection? [After a pause.] The Chair hears none. The gentleman from Virginia [Mr. Montague] is recognized.

Mr. MONTAGUE. Mr. Chairman, international law, as adjudicated by our nisi prius courts and our Supreme Court, holds that one of the immediate consequences of war is the interdiction of commercial relations between the citizens or subjects of the belligerent nations. International law has been often held by our Supreme Court to be a part of the law of our country, so it is necessary for the committee and the country to realize that from the outbreak of this war all commercial intercourse, with negligible exceptions, between American citizens and German subjects has been abruptly suspended or revoked. Any continuance or revival of this commerce on the part of our citizens can only be had by the express permission of our Government. This seems the excepted Anglo-American doctrine.

In 1799 Sir William Scott, in the leading English case of the ship *The Hoop*, after stating the case as one involving the shipment of goods from Holland to Great Britain, declared:

In my opinion there exists such a general rule in the maritime jurisprudence of this country, by which all trading with the public enemy, unless with the permission of the sovereign, is interdicted. It is not a principle peculiar to the maritime law of the country: it is laid down by Bynkershoek as a universal principle of law—*Ex natura belli commercia inter hostes cessare non est dubitandum. Quamvis nulla specialis sit commerciorum prohibitio, ipso tamen jure belli commercia esse vetita, ipsae indictiones bellorum satis declarant, etc.* He proceeds to observe that the interests of trade and the necessity of obtaining certain commodities have sometimes so far overpowered this rule that different species of traffic have been permitted—*prout e re sua, subditorumque suorum esse censent principes*. But it is in all cases the act and permission of the sovereign. Wherever that is permitted it is a suspension of the state of war *quoad hoc*. It is, as he expresses it, *pro parte sic bellum, pro parte pax inter subditos utriusque principis*. It appears from these passages to have been the law of Holland. Valin (1. III. title 6, art. 3) states it to have been the law of France whether the trade was attempted to be carried on in national or in neutral vessels: it will appear from a case which I shall occasion to mention—*The Fortune*—to have been the law of Spain; and it may, I think, without rashness, be affirmed to have been a general principle of law in most of the countries of Europe.

Mr. Chairman, this opinion is still the law of England, as may be seen by an examination of her text writers and her latest decisions. I

would refer here to the report submitted in relation to the pending bill to the cases of Hugh Stevenson & Sons (Ltd.) against Aktien-Gesellschaft and the Distington Hematite Iron Company (Ltd.) against Possehl, both decided by the high court of justice of the King's bench division in 1916, as confirming what I have stated to be the law of Great Britain.

Mr. Chairman, I would now ask brief consideration of the American view. The leading case is *The Rapid*, decided by the Supreme Court in 1814, involving the bringing into the United States, from a small island situated near the boundary line between our country and Nova Scotia, goods purchased in England and carried to this island before the outbreak of the War of 1812, where the court held the transaction a trading with the enemy, and a consequent forfeiture followed.

In the case of Insurance Company against Davis, decided in 1877, the Supreme Court discussed quite fully this doctrine in relation to an insurance contract between parties resident, respectively, of opposing belligerents, but the policyholder and the agent of the company, appointed before the outbreak of the war, were residents of the same State, and the court said:

That war suspends all commercial intercourse between the citizens of two belligerent countries or States, except so far as may be allowed by the sovereign authority, has been so often asserted and explained in this court within the last 15 years that any further discussion of that proposition would be out of place. As a consequence of this fundamental proposition it must follow that no active business can be maintained, either personally or by correspondence, or through an agent, by the citizens of one belligerent with the citizens of the other. The only exception to the rule recognized in the books, if we lay out of view contracts for ransom and other matters of absolute necessity, is that of allowing the payment of debts to an agent of an alien enemy, where such agent resides in the same State with the debtor. But this indulgence is subject to restrictions. In the first place, it must not be done with the view of transmitting the funds to the principal during the continuance of the war, though if so transmitted without the debtor's connivance he will not be responsible for it. *Washington, J., in Conn v. Penn (Pet. C. Ct., 496) ; Buchanan v. Curry (19 Johns, (N. Y.), 141).* In the next place, in order to secure the subsistence of the agency during the war it must have the assent of the parties thereto—the principal and the agent. As war suspends all intercourse between them, preventing any instructions, supervision, or knowledge of what takes place on the one part, and any report or application for advice on the other, this relation necessarily ceases on the breaking out of hostilities, even for the limited purpose before mentioned, unless continued by the mutual consent of the parties. It is not compulsory, nor can it be made so on either side to subserve the ends of third parties. If the agent continues to act as such, and his so acting is subsequently ratified by the principal, or if the principal's assent is evinced by any other circumstances, then third parties may safely pay money for the use of the principal into the agent's hands; but not otherwise. It is not enough that there was an agency prior to the war. It would be contrary to reason that a man, without his consent, should continue to be bound by the acts of one whose relations to him have undergone such a fundamental alteration as that produced by a war between the two countries to which they respectively belong—with whom he can have no correspondence, to whom he can communicate no instructions, and over whom he can exercise no control. It would be equally unreasonable that the agent should be compelled to continue in the service of one whom the law of nations declares to be his public enemy.

Mr. Chairman, it would weary the committee to discuss in detail the cases of our Supreme Court upon this great question. I desire, however, for the sake of brevity, to read the syllabi of a few of these cases taken from the Digest of the Supreme Court, published by the Lawyers' Cooperative Publishing Co.:

In war the belligerents and all their citizens and subjects are enemies to each other. All intercourse and communication between them is unlawful. (*Jecker v. Montgomery*, 18 How., 110.)

While the existence of war closes the courts of each belligerent to the citizens of the other, it does not prevent the citizens of one belligerent from taking proceedings for the protection of their own property, in its own courts, against the citizens of the other whenever the latter can be reached by process. (*Masteron v. Howard*, 18 Wall., 99.)

Absolute suspension of the right of the citizens of one belligerent to sue the citizens of the other, and prohibition to exercise such right, exist during war by the law of nations; but the restoration of peace removes the disability and opens the doors of the courts. (*Caperton v. Bowyer*, 14 Wall., 216.)

Citizens of a neutral country established in business in the enemy's country may be regarded as enemies and their property as enemy's property. (*The Flying Scud v. United States (The Flying Scud)*, 6 Wall., 263.)

Mr. Chairman, the most abbreviated discussion of this subject would be incomplete without reference to Judge Gray's great opinion in *Kershaw against Kelley*, decided in the Supreme Judicial Court of Massachusetts in 1868, and where his extraordinary genius for assembling precedents was, perhaps, never equaled by him in his subsequent career upon the Supreme Bench of the Nation. After an exhaustive collocation and analysis, he says:

The result is that the law of nations, as judicially declared, prohibits all intercourse between citizens of the two belligerents which is inconsistent with the state of war between their countries; and that this includes any act of voluntary submission to the enemy or receiving his protection, as well any act or contract which tends to increase his resources; and every kind of trading or commercial dealing or intercourse, whether by transmission of money or goods or orders for the delivery of either, between the two countries, directly or indirectly, or through the intervention of third persons or partnerships, or by contracts in any form looking to or involving such transmission, or by insurances upon trade with or by the enemy.

So, Mr. Chairman, I may affirm that the suspension, the interdiction, and sometimes the revocation of all commercial intercourse between the citizens or subjects of belligerent nations, upon the outbreak of war, is the accepted Anglo-American law. All such trading or commercial intercourse, unless specially licensed, becomes ipso facto illegal upon the outbreak of war. This rule, I may add, is undoubtedly also the law of Europe.

The converse of the rule, namely, that all such trading is permissible until prohibited, is contended for by some publicists, but it does not seem to be sustained by administrative pronouncements or juridicial deliverances, however desirable such international practice may be.

The nearest approximation to such a rule may be found in the new provision of article 23 of the "regulations respecting the laws of land warfare," added under the letter (h) at the second Hague peace conference in 1907, and which runs as follows:

It is forbidden "to declare extinguished, suspended, or unenforceable in a court of law the rights and rights of action of the nationals of the adverse parties."

The interpretation of this rule by Great Britain and the United States is likely to confine the provision to the right of the belligerent nation to instruct the commanders of its forces in the enemy's country not to declare such rights extinguished, suspended, or unenforceable in a court of law in such country. For example, Germany has no authority to extinguish or suspend such rights on the part of the citizens of Belgium, as a matter of administration, during military occupancy of her

territory. This seems to be the interpretation of the rule by Davis, one of the American delegates to the second Hague conference, as found in the third edition of his very excellent work, *The Elements of International Law*, page 576. I may add that Germany was the author of section (h), but that her practice is in brutal conflict with an interpretation of the rule even so narrow as that made by Davis; indeed, Germany seems rather to have forgotten the rule in all of its aspects, or designedly to have considered it another "scrap of paper."

Mr. Chairman, I venture now to hope I am justified in concluding that this committee, in view of the state of the law of nations as recognized by the United States, realizes that our commercial intercourse with Germany has been brought to an impasse, and that none of this trade, no matter how necessary and beneficial to our citizens, can be resumed or carried on in the absence of appropriate legislation by Congress. This bill, therefore, is submitted as according the most adequate, the most equitable, and the most practicable method for the conduct of all desirable trade.

Mr. GRAHAM of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MONTAGUE. I will.

Mr. GRAHAM of Illinois. Before the gentleman leaves that subject I would like to have him expand his statement a little as regards contractual rights between people or citizens of belligerent countries. As to those countries, are these contractual rights ipso facto null and void, or do they continue after the resumption of peace?

Mr. MONTAGUE. As a rule, all contracts concluded during war are void. No action upon such contracts will be entertained during or after the war, as I understand the law. But contracts made before the war are usually suspended as to their execution, and the right of action or suit revives after the war to the former enemy.

Mr. MADDEN. Mr. Chairman, will it interrupt the gentleman if I ask him a question?

Mr. MONTAGUE. No.

Mr. MADDEN. I am interested to find out just exactly what effect this law will have, and I think the people of the United States who are not lawyers are anxious to know what effect this law, when passed, will have upon alien enemies living in this country and doing business in this country.

Mr. MONTAGUE. This bill does not recognize "alien enemies living in this country" as enemies. Germans living in America are not enemies; they are entitled to all the rights of American citizens unless their conduct becomes so hostile or offensive that they must be reached by Executive proclamation, as provided for in the bill. The chief definition of an enemy is one resident within Germany or within the territory occupied by her military forces.

Mr. Chairman, perhaps in no former war was trade ever so potential a weapon in the hands of a belligerent as in the present conflict. This is not a war of soldiers so much as a war of economic forces. Trade extended or trade suspended—commerce wisely withheld or commerce employed to exert the greatest economic pressure—is of transcendent moment now. But, happily for us, this bill seeks to accomplish these great ends by creating no new rules of international law. It recognizes that these rules work an abatement of trade by reason of war, but it undertakes to surmount this barrier by allowing trade under

the sanction of law. That is to say, the bill recognizes and affirms the interdiction of international law, and then at once relaxes the scope and rigor of such interdiction by allowing almost all forms of trade under the authority of licenses issued by the Secretary of Commerce, under the direction of the President. In other words, the bill would prohibit all trading with a German subject by an American citizen unless permitted by the license of the Government. The extent and content of these licenses are almost unlimited, depending upon prudent and wise administrative discretion. Therefore it may be affirmed that all trade will be allowed that does not conflict with the national safety and the successful prosecution of the war.

Mr. FESS. Will the gentleman yield for a question?

Mr. MONTAGUE. I will.

Mr. FESS. Without this legislation what is the legal status of an enemy resident here? Has he any standing in court at all?

Mr. MONTAGUE. A German resident in the United States is not an enemy under the terms of the bill, unless he should be so declared subsequently by the proclamation of the President, in which case he would have no standing in court.

Mr. FESS. He could not sue on a contract?

Mr. MONTAGUE. Not unless the contract were one of the exceptions contemplated by general international law.

Mr. FESS. And therefore this legislation is simply to enable him to do what otherwise he could not do.

Mr. MONTAGUE. The gentleman in his interrogatory has stated the response to his question. Under existing international law there is no forum in which enemies can stand to protect or enforce their contracts. The courts do not open their doors to enemies.

Mr. FESS. The citizen of an enemy country resident here has no rights under the patent law, has he—rights that he had already secured before the war? Such rights, either under the patent law or the copyright law, do not longer exist, do they?

Mr. MADDEN. Will the gentleman answer a question right there in connection with this?

Mr. MONTAGUE. Yes.

Mr. MADDEN. Suppose that some German patentee has entered into a contract with an American citizen to manufacture his product in America for sale to the American people. What becomes of the contract after the declaration of war?

Mr. MONTAGUE. It is suspended under existing law—that is, the general law. This bill gives reciprocal rights as respects patents.

Mr. MADDEN. Would there be any means by which an American citizen having any such contract could prosecute the business under the contract during the pendency of the war? He may have invested a lot of money.

Mr. MONTAGUE. He may conduct the business under the license provided in this bill. Under this bill the citizen can obtain a license to do everything provided in the original patent.

Mr. MADDEN. Would there be any means by which the money could be impounded?

Mr. MONTAGUE. This bill undertakes also to do that if the income of the enemy is in form of money or demand notes.

Mr. MADDEN. Yes; so that he could continue to do his business without losing his investment.

Mr. MONTAGUE. The enemy patentee would not continue to do business, but the American licensee under the patent would do the business, being ultimately liable for certain profits or royalties prescribed in the bill.

Mr. HULBERT. Do I correctly understand that the purpose of this bill is to provide rules and regulations for the carrying on of business which now we are permitting to be carried on as a mere matter of suffrance?

Mr. MONTAGUE. Of course trade now carried on is carried on in violation of general international law and at a very great risk to those conducting it. They may be violating international law, and these violations may be recognized by the American courts without congressional legislation.

Mr. FESS. Will the gentleman permit an interruption?

Mr. MONTAGUE. Yes.

Mr. FESS. The general opinion regarding the enemy-trading act has been that it has an element of punishment in it, but instead of that this is a friendly attitude toward the enemy citizen—

Mr. JOHNSON of Kentucky. Enemy resident.

Mr. FESS. Enemy resident. It is in his behalf rather than against him?

Mr. MONTAGUE. The first intention of the bill is to give the German resident in the United States almost every right that a citizen has. The German resident can be disturbed, not by the first operation of the act, but by the subsequent proclamation of the President, issued in pursuance of authority given in the act, manifestly to be done only when it is apparent that the German or ally of Germany residing in America is giving aid or comfort to the enemy or doing some act of somewhat similar character.

Mr. STAFFORD. Will the gentleman yield?

Mr. MONTAGUE. I will.

Mr. STAFFORD. Do I understand that this bill confers upon the President any authority to grant to an alien subject doing business in this country the right to sue in the courts to enforce his contract?

Mr. MONTAGUE. If he is a resident of this country, he has that right under this bill without the proclamation of the President.

Mr. STAFFORD. If so, where is that authority?

Mr. MONTAGUE. In the very terms of the bill defining an enemy, whereby German residents in the United States have all rights in this respect of native-born citizens, unless these rights be recalled by the proclamation of the President for hostile conduct on the part of the Germans resident in the United States.

Mr. LENROOT. Will the gentleman yield?

Mr. MONTAGUE. I will.

Mr. LENROOT. With reference to the statement the gentleman has just made, that the purpose of this bill is not to infringe in any way upon international law, I wish to ask the gentleman with reference to section 2—

The word "enemy" shall be deemed to mean any resident outside of the United States and doing business within such belligerent territory.

Mr. MONTAGUE. Where is the gentleman reading?

Mr. LENROOT. At the bottom of page 1 of the committee substitute. I want to ask the gentleman whether that does not violate international law in this, that, irrespective of whether the business of the resident outside of the United States is within billigerent territory or not, if he does any business within belligerent territory it makes him an enemy, not only for such business but for all business done by that resident, and is not that in violation of existing international law?

Mr. MONTAGUE. The purpose of the bill is to make neutral citizens or subjects doing business within the enemy's country enemies. This is not new law. The English trading-with-the-enemy act so determines such neutrals, and I think our Supreme Court declares business so carried on in the country of the enemy by neutrals makes them enemies. Certainly it is not in contravention of international law for the Congress to declare such business residents to be enemies.

Mr. LENROOT. I call the gentleman's attention to the consequence of section 7, where it renders void any contract or payment made to any enemy. To illustrate, a citizen of Denmark, we will say, has an agent doing business in Germany, a very small percentage of his business and a business which he has the right to do under international law; but he has had business dealings with American citizens, not with relation to the business which he has done with Germany but entirely foreign to it. Under the bill as it stands it renders void every contract, irrespective of the kind of business in which the Denmark subject is engaged, and treats him as an enemy, not only so far as business done with Germany but all business done.

Mr. MONTAGUE. I can only repeat that a neutral carrying on business in Germany is an enemy under this bill, and because he does business, the large part of the business as to that, with citizens of friendly countries does not alter his enemy character. It would be impossible to separate or distinguish his enemy business from his neutral business. His credit, his solvency, could not be separated and apportioned. He has in law a business residence in Germany, and of necessity he must, quoad this business, stand as other residents of Germany.

Mr. LENROOT. But section 7 has no exceptions, but renders every contract void.

Mr. MONTAGUE. That seems true, but there is no practicable way of distinguishing and separating his business as to enemy credits and neutral credits. It is one business, regardless of the character or residence of the purchasers or contractors.

Mr. Chairman, returning now to my line of argument, I have heretofore suggested that the definition of enemy found in the bill is significant, for it is determinative. This is the Anglo-American definition in that it makes the residence of the person in enemy territory the test of the enemy character, in contrast with that of Europe which makes nativity or nationality the test. A German subject residing in America, for example, is not per se an enemy, and under this bill is only an enemy when the proclamation of the President so declares him upon grounds of public safety.

Mr. LENROOT. Will the gentleman give his construction of the phrase "resident outside of the United States doing business within such territory"?

Mr. MONTAGUE. I have heretofore discussed this definition and test of enemy character, and endeavored to show that it was in no sense novel or an extension of the rule recognized by England and by the United States. I will now answer that it would be most unfortunate to exclude enemies falling under this definition, for it is this class of enemies who by indirect methods and circuitous routes carry on trade of America to strengthen the credit of Germany.

Mr. LENROOT. The gentleman's construction is that it means all business done by that resident, if he does any business within enemy territory?

Mr. MONTAGUE. Yes; his business is not susceptible of division into lines or degrees of hostile activity or friendly activity. No such apportionment is practicable, and a definition of enemy into such a divided character would destroy the entire definition. He can not be half enemy and half neutral at the same time.

Mr. LENROOT. How does the gentleman think the United States would have considered Germany's action if, prior to the beginning of the war, she had treated every citizen who did business with England as an enemy and forfeited all property held in Germany by that citizen?

Mr. MONTAGUE. Germany would have had a right to so hold if he did business within England.

Mr. LENROOT. Absolutely not, under international law—only that part of the business done with England would she have a right to forfeit.

Mr. HILL. Mr. Chairman, will the gentleman yield?

Mr. MONTAGUE. Yes.

Mr. HILL. There is one question that troubles me a little in regard to this bill and that is this: What becomes of the dividends of railroad companies due to foreign stockholders? For many years the great railroads of the country have been placing loans abroad and many of them are held there now represented by bonds and stocks. Understand me, I am in sympathy with the general provisions of the bill, but I would like to know what becomes of future dividends and future interest upon stocks and bonds, amounting to millions and millions of dollars due to foreigners.

Mr. MONTAGUE. I am answering the gentleman generally. The bill provides machinery by which there shall be a complete disclosure and discovery of all foreign stockholders and their interests, and provides that that interest shall be impounded and cared for by our Government during the war.

Mr. HILL. How cared for? Is it compulsory that these dividends and that interest shall be paid to the Secretary of the Treasury, or can it be held back by the companies owing the debt?

Mr. MONTAGUE. It will be compulsory in this sense, that the Secretary of Commerce shall make rules and regulations with respect to the payment. The report is compulsory, the collection of the money reported may or may not be compulsory. I imagine a great deal of it will never be attempted to be collected.

Mr. HILL. Then there is no definite provision in the bill?

Mr. MONTAGUE. There is a definite provision in that the bill gives ample authority to deal with that subject. Administrative discretion, under appropriate regulations is provided for.

Mr. HILL. But no specific provision is made by the bill itself, except that millions of dollars are to be put into the hands of the Secretary of the Treasury if the Secretary of Commerce shall so prescribe.

Mr. MONTAGUE. One of the objects of this bill is to put those particular millions into the hands of this Government if it is deemed wise or necessary so to do. If it is money or demand notes, it goes into the Treasury and can then be invested in Government bonds and certificates by the Secretary of the Treasury.

Mr. HILL. Is there any provision made for a subsequent payment to the owner of that property?

Mr. MONTAGUE. After the war?

Mr. HILL. What is the provision then made? As I read the bill the owner of a patent can sue and recover for royalties and for use, but there is no provision in the bill whatever for the return of dividends and interest upon stocks and bonds, an investment which we ourselves have solicited from investors in foreign countries.

Mr. MONTAGUE. The question of patents is a reciprocal one.

Mr. HILL. Certainly.

Mr. MONTAGUE. That right is given provided the enemy nation accords a similar right to the citizens of America. There is a provision made that all money and property may be impounded by the Government. If it is money it can be reinvested by the Secretary of the Treasury. At the end of the war Congress may deal with all property so impounded. No hard-and-fast rule can be made now, because the question of indemnity, of offsets, will arise and we should fortify our Government for the final negotiations of peace.

Mr. HILL. Then, as I understand it, it is practical confiscation now, but subject to the courtesy and kindness of Congress after the war is over, so far as actual money is concerned, but giving a legal right to recover in case of patents?

Mr. MONTAGUE. Not confiscation at all. The Government will act, if I may use a legal term, as bailee. It will take this property and invest it in the best security in the world. It will take property which does not belong to debtors in this country, and who may not be solvent at the end of the war, and hold it for final disposition after the war. In other words, the Government undertakes to do by these enemy creditors better than the resident debtors or such enemy creditors could do for themselves.

Mr. HILL. That might be. I do not want to take the gentleman's time, but I want an understanding of this situation, because it is true that we shall in the future, as in the past, probably be applicants for the investment of foreign funds in the development of the industries and the railroad situation of this country, and no one needs it more than the railroads do now. What position are we going to be in if we confiscate the stocks and bonds owned abroad and put the dividends and interest from them into the Treasury of the United States for the Secretary of the Treasury of the United States to hold, to invest, to sell, and make no provision whatever at the time we do it that there shall be at least a prescribed legal way for the owner to come back and make claim against the United States.

Mr. MONTAGUE. I think the gentleman's assumption that the bill authorizes confiscation is a violent one.

Mr. HILL. No disposition is made of it.

Mr. MONTAGUE. The disposition is to hold it in safety, and use it to our advantage during the war.

Mr. HILL. Why not let the companies hold and refuse to pay the dividends and interest to the foreign stockholders instead of taking it out of investment. Let them refuse and hold it and report to the Government they have got it, and let the Government authorize them to hold it back, absolutely hold it back and not pay it over until——

Mr. MONTAGUE. Because in war enemy property can be best held and cared for by the Government itself. It is primarily the function of government to deal with enemy property.

Mr. HILL. I heartily agree with the gentleman on that proposition.

Mr. MONTAGUE. That is what the bill endeavors to accomplish.

Mr. HILL. Why not make some declaration of what will be done with it after the war is over?

Mr. MONTAGUE. Because you can not make a proper disposition in advance of the end of the war. We preserve this property in its integrity until the war is over, and then we will deal with it in the final negotiations.

Mr. HILL. These dividends and interest must be paid to a United States custodian?

Mr. MONTAGUE. Yes.

Mr. HILL. And held by the Secretary of the Treasury until after the war is over.

Mr. MONTAGUE. The dividends go into the Treasury.

Mr. HILL. There is no provision whatever for the presentation of claims on the part of owners, except that they must trust entirely to the action of Congress after the war is over. Do I understand the gentleman correctly?

Mr. MONTAGUE. In so far as the Government has taken possession of the money or other property.

Mr. HARDY. If the gentleman will permit, it seems to me the purpose of this bill is to leave the international rights of citizens of different nationalities for adjustment between the nations now at war after the war is ended.

Mr. MONTAGUE. The gentleman correctly states it.

Mr. STAFFORD. Will the gentleman yield for just a question? Will the gentleman inform the committee, either now or before he concludes his remarks, whether belligerent Governments have pursued any similar policy since the beginning of the great war?

Mr. MONTAGUE. Great Britain and France have, so far as I am informed. They may not invest or reinvest the money so taken over; that is an American contribution to belligerent finance.

Mr. STAFFORD. To the extent as embodied in this bill?

Mr. MONTAGUE. I think Great Britain goes further than we do. I am not prepared to say how far the French Government has gone as respects the custodian.

Mr. ESCH. If the gentleman will permit, I understand the Germans also have a custodian.

Mr. MONTAGUE. In response to the question of the gentleman from Wisconsin my answer was meant to convey the idea that the laws of the other belligerent nations as respects enemy property are perhaps more drastic than this bill.

Mr. ESCH. If the gentleman will permit, in reference to an inquiry made by the gentleman from Connecticut [Mr. Hill], these stocks and bonds are not to be turned over to the custodian, but they must be left with depositories selected by the Secretary of Commerce on recommendation by Secretary of the Treasury.

Mr. MONTAGUE. Yes.

Mr. ESCH. And after the depositories pay over to the custodian they deposit in the Treasury the dividends on the stocks and interest on the bonds.

Mr. DEWALT. And further, in reference to that, these depositories must furnish bonds for safekeeping.

Mr. MONTAGUE. I will say that was in my mind when I replied to the gentleman from Connecticut that the Government was a quasi bailee. Now, the increment, the interest, goes to the custodian, and the custodian turns it over to the Secretary of the Treasury, who may invest it in Government bonds or certificates.

Mr. HILL. I am not criticizing that, but I wonder if some better way could not be had? For instance, take the case of the Pennsylvania Railroad. Nobody questions the financial solvency of that railroad. Would it not be better to pass a law authorizing and requiring the Pennsylvania Railroad to withhold the dividends from the foreign stockholders until the close of the war to be then paid, rather than require them to pay it over to a custodian and that custodian invest it in such bonds as he sees fit—

Mr. MONTAGUE. The character of investment is prescribed by the act.

Mr. HILL. Within the last 30 or 60 days the 3 per cent Panama bonds have gone to the eighties. Is there any justice in taking the money of the foreigner, investing it without this knowledge or consent, if it can be safely retained in the property in which he made the investment?

What harm would there be in allowing the Pennsylvania Railroad, for example, to withhold the dividends and also keep here the interest on the bonds held by foreigners?

Mr. DEWALT. The answer to that, let me say to the gentleman from Connecticut [Mr. Hill] is this: The purpose here is to take the increment arising from these bonds, place it in the hands of this Government, and let this Government use that for its purposes during the continuance of the war.

Mr. HILL. I would not have the slightest objection to that if there was any provision in the bill that the full amount should be returned when the war was over.

Mr. DEWALT. When the war is over, these parties are relegated to their rights under the act of Congress. This property is not confiscated at all.

Mr. HILL. To all intents and purposes it is, because it says it shall be held subject to the action of Congress, then—

Mr. DEWALT. Very true.

Mr. HILL. And who knows what the Government or Congress will do then?

Mr. DEWALT. But the gentleman seems to forget that these bonds themselves are not in the hands of the Government.

Mr. HILL. That is the way I understood it when reading the bill.

Mr. DEWALT. They are in depositories to be selected by the Secretary of the Treasury—trust companies or other security companies. Those security companies must enter bonds with the United States Government for the safe-keeping thereof.

Mr. HILL. What I think ought to be done should be to require those people to withhold the dividends during the continuance of the war.

Mr. MONTAGUE. As long as we do that the German owner of the dividends has a substantial basis of credit.

Mr. HILL. Not under the law. It is confiscation as the bill puts it.

Mr. MONTAGUE. Why should a private or corporate debtor be permitted to hold property belonging to the enemy? The money belongs to the enemy. No individual should control it unless allowed by his Government.

Mr. HILL. Why does the bill provide that in the case of a patentee that provision shall be made for procuring his rights afterward, but not in the case of actual cash?

Mr. MONTAGUE. There is no analogy between patents and the dividends due enemies by citizens of America. We give patent rights to Germany upon condition that she give similar rights to the United States.

Mr. HILL. I want this country to so fairly and justly protect the foreigner that in the years to come when we go, as individuals and corporations in your State and my State and other States of the Union will go, to Europe to solicit funds, as they have done in the past, we will not be met with the reply that we have confiscated property.

Mr. MONTAGUE. If the act does not permit the debtors of these dividends to retain them there is no injury to their rights, for their right is to pay it over to the owner, and when that owner is an enemy the Government steps in to forbid such payment.

Mr. HILL. Of course, there is not, but it is an injustice for the Secretary of the Treasury to have authority to invest in any form that he sees fits in Government funds, and then not return that money when the war is over until Congress shall provide how it shall be done or whether it shall be done at all or not.

Mr. MONTAGUE. Of course, the gentleman may take a case that he feels would be better conducted by doing as he suggests, but all of these debtors are not Pennsylvania Railroads. No one can foretell the status of business in the era now facing us, and therefore I submit that if the United States should become the custodian of this property it would protect rather than jeopardize the interests of enemy creditors.

Mr. HILL. Why not permit it to be placed in the bill, and not say as this bill does that we will invest it for our own benefit, and perhaps by and by, five years from now, after the war is over, Congress may take some action for their relief?

Mr. MONTAGUE. My individual views are that by impounding this property it is made to serve the interests of America in this great struggle, and, at the same time, its final and honest payment to the creditor is made more secure.

Mr. MOORE of Pennsylvania. Will the gentleman yield? As to this Pennsylvania Railroad illustration, I understand the gentleman from Connecticut [Mr. Hill] fears that the foreign investment in an American railroad may be disturbed and that its usefulness will be destroyed;

that there will be a vacuum when the alien investment is taken away that will have to be filled up? If I understand the gentleman from Pennsylvania [Mr. Dewalt] and the gentleman from Virginia [Mr. Montague] the investment itself is not disturbed at all?

Mr. MONTAGUE. Not at all.

Mr. MOORE of Pennsylvania. The increment is taken over by the alien property custodian and is held in the Treasury, but the investment goes on and serves its purpose. Am I right about that?

Mr. DEWALT. Yes. And permit me further. This is also true, that whilst there may be in time of war loss to the Pennsylvania Railroad investor, that may apply to the home holder of the same stock. So that it would not work any injustice to anybody at all.

Mr. MOORE of Pennsylvania. The disposition of the investment itself and the increment is left for Congress to determine after the war?

Mr. DEWALT. Exactly?

Mr. MOORE of Pennsylvania. And the investment fund itself remains in the hands of the operating companies?

Mr. DEWALT. Yes.

Mr. MOORE of Pennsylvania. And is kept working in the United States?

Mr. MONTAGUE. Yes; and money so held by the Government is for the benefit of the creditor and the Nation alike.

Mr. HILL. The bill does not so provide. I think it should do so specifically. May I ask the gentlemen why provision is not made for the claiming and proving of the title, as in the case of a patent suit, in the matter of interest and dividends on bonds? As it is now it is temporary confiscation, trusting in the goodness of Congress after the war is over to provide some remedy. I can not understand why preference is made in one case and not in the other.

Mr. MONTAGUE. I answered the gentleman a few minutes since. The difference between the gentleman and myself is that he believes in private "confiscation" and I believe in Government "confiscation," to use the term employed by him, which is wholly inapplicable.

Mr. HILL. I do not believe in railroad confiscation. I believe in honesty in business. I do not believe in repudiation of State debts or any other kind of debts. I believe the Federal Government has the power to say to the Pennsylvania Railroad or to any other railroad, "You shall not pay one penny of interest on any bond to a foreign stockholder."

Mr. MONTAGUE. What would you do with it?

Mr. HILL. I would let them hold it where the investor originally put it. Your bill says, "We will temporarily confiscate it and leave it to the goodness of Congress by and by to provide some law by which relief will be afforded."

Mr. MONTAGUE. The gentleman's use of the word "confiscation" is wholly arbitrary. This is only a question as to which is to be bailee or custodian—the private debtor or the United States. That is the whole question. The bill provides that the Government may be the custodian, not the private debtor of the enemy.

Mr. HILL. Oh, in one case the stockholder has a right to sue the corporation after the war, and he can not sue the Government.

Mr. MONTAGUE. There will no trouble about suing the Government.

Mr. HILL. There is trouble. The law does not permit him to sue the Government. I say, "Treat them fairly and treat them strictly, but do not confiscate property." We may have occasion to go to them again for loans by and by.

Mr. MONTAGUE. The enemy creditor might not recover from the debtor in the absence of this law after the war is over?

Mr. HILL. Why not leave the investment there, but not let the proceeds go to him?

Mr. MONTAGUE. It is wiser and more expedient that earnings belonging to the enemy creditor may be turned over to the Government as bailee than that it should remain in the hands of the debtor. That is evidently the principle underlying the bill.

Mr. HILL. Suppose that money had been invested in Panama 3 percent bonds two or three months ago, and the Secretary of the Treasury at the end of the war should sell those. Who is going to stand good and make the loss?

Mr. MONTAGUE. I do not think there will be any loss. But in any case where loss should occur, it would occur as well as if the interest were retained in the hands of the debtor himself.

Mr. HILL. Oh, you do not think there will be. There has been on every bond issued by every belligerent nation in the world, depending on the length of the war.

Mr. MANN. Mr. Chairman, will the gentleman from Virginia yield for a question?

Mr. MONTAGUE. I yield to the gentleman with pleasure.

Mr. MANN. I thought the gentleman had been diverted from any argument.

Mr. MONTAGUE. I thank the gentleman for his rescue.

Mr. MANN. Is there any authority in this bill for an alien enemy to bring a suit pending the war against the United States, except in patent matters?

Mr. MONTAGUE. Not during the war.

Mr. MANN. How about a bankruptcy case?

Mr. MONTAGUE. The same prohibition applies, I would say.

Mr. MANN. Here is a bankruptcy case. A man has to file his claim or lose it. What are you to do? Shut him out entirely?

Mr. MONTAGUE. How could he bring a suit without this bill, I will ask the gentleman?

Mr. MANN. I think under international law he could. That claim has been made, but that has nothing to do with the question.

Mr. MONTAGUE. But if he has no such right in the absence of legislation, how is he injured?

Mr. MANN. We are passing a bill now to fix the rights. It seems perfectly manifest that if there is a case in bankruptcy and the alien enemy has a claim, there ought to be some way of proving the claim. It might not be desirable to pay the money to an alien enemy during the war, but does not the gentleman think that the claim ought to be allowed to be proven? There are many cases similar to that.

Mr. MONTAGUE. I do not think suit, as suggested by the gentleman from Illinois, could be maintained under this bill or under international law.

Mr. MANN. This bill, as I understand it, covers the law on this subject. I am informed by reputable attorneys that there have been cases

where it was held that in a bankruptcy proceeding an alien enemy could prove his claim, although the money might not be paid to him during the war. But this bill, determining the rights of the alien enemy, would forbid that right to be preserved.

Mr. DECKER. May I ask what part of it would forbid that?

Mr. MANN. The bill fixes the whole status.

Mr. DECKER. I think not. A claim or suit would not be a question of trading with the enemy, would it?

Mr. MANN. It plainly forbids the bringing of a suit except in patent cases.

Mr. DEWALT. Mr. Chairman, if the gentleman from Virginia will permit, in reply to the gentleman from Illinois [Mr. Mann], if he will refer to section 9, on page 13, he will find that that section intimates, if it does not clearly express, the rights of those who have claims. I am very free to grant what the gentleman says that there would be no inherent right of suit in the bankruptcy court.

Mr. MANN. I think there would be, except by this bill.

Mr. DEWALT. Except by this bill; and I judge from what the gentleman says in reference to it that a provision of that sort might be the part of wisdom; but if the gentleman will read section 9, it declares that anyone who has—

any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder—

may file his claim, and may also pursue his remedy in the district court. Now start out with the absolute idea that all the property assets of the alien bankrupt are conveyed ab initio to the custodian. Another thing that must be remembered is this, that in this bill the enemy is not described as an enemy by nativity or by citizenship. He is described as an enemy by the mere fact of location. In other words, it does not affect a man who is resident in this country. It does affect those who are resident in hostile territory.

Mr. MANN. It might affect a citizen of the United States in Germany.

Mr. DEWALT. Yes.

Mr. MANN. Although he has an agent here with a power of attorney, under this bill the agent here with that power of attorney can not do anything and might entirely lose his claim, though evidently that is not the purpose of the bill.

Mr. DEWALT. The latter statement that the gentleman makes is a little too broad.

Mr. MANN. I do not think so.

Mr. DEWALT. Basically it might be correct, but it must be couched with an exception. If there is an established agency in this country which is recognized both by the agent and the party who employs him and the employer be living in a foreign country, then the agent can receive payment for the principal, and that is legally valid under the law and acts as an acquittance.

Mr. MANN. Is that provided for in this bill?

Mr. DEWALT. Yes; that is provided for in this bill, with this provision also, however, that if the Government of the United States has reasonable cause to believe that the agent located here will transmit to the alien in the foreign country the property which he collects, then he can be prohibited from so doing.

Mr. MANN. Are the provisions to which the gentleman refers in the original bill or in the substitute?

Mr. DEWALT. In the original bill and the substitute.

Mr. MANN. I must say I do not find them in the original bill. I have not examined the substitute. I should be glad to have any gentleman point out where they are in the original bill.

Mr. MONTAGUE. I think they are in the substitute.

Mr. STAFFORD. Where?

Mr. MANN. I shall be glad to know where that is in the substitute.

Mr. MONTAGUE. Mr. Chairman, I now desire to proceed in my own time. When interrupted, some minutes since, I was addressing myself to the definition of enemy, the enemy to whom trade and intercourse and communication are forbidden in this bill. I now desire to direct attention to the kind of trade and intercourse interdicted. The interdiction is very ample, very comprehensive; it embraces all forms of trade and commercial intercourse and communication; it forbids the transportation of an enemy or the ally of an enemy; it forbids the transmission out of the United States of all letters, documents, writings, pictures, diagrams, maps, or other forms of communication intended to be delivered to any enemy or his ally—prohibitions in the main and in principle long recognized by international law.

Mr. Chairman, it should be observed that these interdictions are at once comprehensive and definite. We know what is forbidden. We do not have to grope and search for meaning or subjects or argue for authority. But if the interdiction is of ample extent, so are the exceptions to the interdiction, for the doing of all the things prohibited is allowed in the next line of the bill. In one line, so to speak, we are told what we must not do, and in the next we are told that all these things can be done if properly sanctioned by the President under the form of licenses issued by the Secretary of Commerce under appropriate rules and regulations. So the character and scope of the licenses constitute the real measure of the modifications, the real extent of the relaxation, of the interdictions imposed by the bill. The prohibition and the exception go hand in hand.

Mr. Chairman, commerce in its ultimate analysis is property, and it is this property and the credits based thereupon that we wish to withhold from the enemy. To reach this end the bill provides for the discovery and disclosure of enemy property and a report thereof. So, under appropriate regulations, with the approval of the President, all corporations, associations, companies, or trustees within the United States must make a report enumerating every officer, director, or stockholder who is an enemy or ally of an enemy, together with the amount of stock or shares owned by such enemy officer, director, or stockholder. I will not, however, elaborate these provisions, as the interrogatories and colloquies heretofore occurring in my time have covered the subject.

But, Mr. Chairman, this property must be conserved. The report of its existence and character having been first made, the next step will be the taking over of the property by the Government, should it be proper and expedient to do so. It should be observed that the discovery and report of such property is compulsory, but its acquisition by the Government is discretionary. When acquired, however, it is manifest

that some agency of Government must become the custodian of this property. To this end the bill provides the agency to be known as "the alien-property custodian," who is empowered to receive all money and property in the United States due and belonging to an enemy or to an ally of an enemy, and who is to hold and account for the same under prescribed regulations. This custodian is appointed by the Secretary of Commerce, with approval of the President. He receives a salary not exceeding \$5,000 per annum, must give approved bonds for the discharge of his duties, and the clerks, investigators, accountants, and other employees necessary for the conduct of the office are to be selected from the list of eligibles prescribed by civil-service regulations and methods.

Mr. Chairman, in this connection a very novel and interesting feature of this bill should at least be brought to the attention of the committee. This is the provision authorizing the alien-property custodian to deposit all moneys, including checks and demand drafts, in the Treasury of the United States, and that this money may be invested and reinvested in United States bonds or certificates of indebtedness, and the interest and increment thereon may be used in the conduct of the war.

The holders of mortgages and liens, if not enemies or allies of the enemy, have their rights protected as far as possible. For mortgagees and lienors may enforce their liens under such regulations and after such notice as the Secretary of Commerce may prescribe, provided however, that the regulations shall require no other notice than that required by the terms of the contract or the law in force at the time of making the contract of mortgage or lien. And, generally speaking, contracts entered into prior to the war between citizens or corporations of the United States with an enemy or ally of an enemy may be terminated upon notice in accordance with the terms of such contracts when served upon the alien-property custodian, and the notice so served is as effective as if served upon the enemy or ally of the enemy.

Mr. LENROOT. Will the gentleman yield?

Mr. MONTAGUE. I will.

Mr. LENROOT. Upon this subject of lienors the bill provides that any person not an enemy having a lien may have a remedy. The word "person" is defined in the bill, but what I want to ask the gentleman is this question: In the case of securities subject to taxation by the State or municipality and upon which they have in lien for tax, under the provisions of this bill the State or municipality will lose all such taxes, will they not?

Mr. MONTAGUE. Why does the gentleman think so?

Mr. LENROOT. Because section 14 provides that there shall be no lien upon any of this property except as specifically provided in the bill. That is in section 9, page 14. The word "person" as defined in the bill does not include State governments or municipalities.

Mr. MONTAGUE. The gentleman may be correct, and the definition of "person" may not embrace States or political subdivisions. I incline to believe he is correct, and perhaps an amendment should be offered to meet the difficulty.

So, too, Mr. Chairman, are the rights and interests of persons not enemies or allies of the enemy, in and to property conveyed, trans-

ferred or assigned or paid to the alien property custodian fully protected. The claimants of such property may litigate their rights under the rather wide latitude conferred by the bill, the procedure provided for being somewhat analogous to the interpleader commonly known to lawyers.

I would now advert for a moment to the subject of patents, trademarks, and copyrights. All of these subjects are dealt with in section 10. This section has been drawn with great care, has had the consideration of the Commissioner of Patents, and the Committee on Interstate and Foreign Commerce, and I am justified in affirming that the rights of American citizens are fully protected. Fundamentally, patent rights are intended to be reciprocal.

MR. LA GUARDIA. Will the gentleman yield?

MR. MONTAGUE. Yes.

MR. LA GUARDIA. Will the gentleman point out where that is provided for?

MR. MONTAGUE. Section 10, dealing with this precise question, says:

Provided, The nation of which the said applicant is a citizen, subject, or corporation shall extend substantially similar privilege to citizens and corporations of the United States.

MR. LONGWORTH. Will the gentleman yield on that point?

MR. MONTAGUE. Certainly.

MR. LONGWORTH. I did not understand from the hurried reading of the bill exactly what the regulations are in regard to patents. Suppose a patent is taken over under a license, is there any provision as to what price may be asked for the goods?

MR. MONTAGUE. It gives the licensee a right to take the patent not to exceed a prescribed charge.

MR. LONGWORTH. And he can sell at his own price.

MR. MONTAGUE. The Federal Trade Commission may prescribe the conditions under which the license is granted, the fee to be charged therefor—which, however, is not to exceed \$100—and a further charge not exceeding 1 per cent upon 5 per cent of the gross sums derived by the licensee from the sale of the invention, or 1 per cent upon 5 per cent of the value of the use of such invention as decided by the Federal Trade Commission. Subsections (c) and (b) of section 10 deal fully with the fee and charges to be paid by the licensees.

MR. LA GUARDIA. Will the gentleman yield again?

MR. MONTAGUE. Yes.

MR. LA GUARDIA. Has the gentleman any information as to what the rights are of American citizens in regard to patents in Germany at this time?

MR. MONTAGUE. I think Germany accords reciprocal rights. Russia is the only exception.

Now, Mr. Chairman, with respect to the clearances of vessels, I need only say it is obvious that the Government should have regulatory powers as to the clearance of all vessels, and the bill gives ample powers in this particular.

MR. FESS. Will the gentleman yield?

MR. MONTAGUE. Yes.

MR. FESS. Before the gentleman takes his seat I want to say that my recollection as to the international requirements touching the annul-

ment of contracts does not touch the issuance of bonds by the Government or the State. The question was suggested awhile ago by the gentleman from Wisconsin.

Mr. MONTAGUE. The validity of the bonds is not in question; the question is how to collect the interest on them. The right is either suspended or abrogated by war; the remedy for collection must be afforded by legislation.

Mr. FESS. In other words, the Government would not discount its own obligation?

Mr. MONTAGUE. Payment is suspended, and when the war is over the question of an accounting and settlement arises, the question of offsets and indemnities, and therefore this whole matter, it seems to me, is wisely left to Congress when the conflict is over.

Mr. FESS. As a Member well informed in international law as is the gentleman—

Mr. MONTAGUE. I thank the gentleman for his compliment, but I am afraid he does violence to the fact.

Mr. FESS. No; I do not. Is it not true that that is one exception in international law—the matter of annulling contracts?

Mr. MONTAGUE. I would not like to answer the gentleman off hand.

Mr. LA GUARDIA. Mr. Chairman, will the gentleman yield?

Mr. MONTAGUE. Yes.

Mr. LA GUARDIA. The reciprocal provision applies to applications for patents.

Mr. MONTAGUE. Yes.

Mr. LA GUARDIA. What I had in mind was paragraph (c) of section 10, which provides that citizens of this country may manufacture any article protected by patent belonging to an alien enemy. That is not reciprocal, is it?

Mr. MONTAGUE. That right is acquired by license.

Mr. LA GUARDIA. Has Germany in any way suspended patents applying to American citizens?

Mr. MONTAGUE. The war suspends them.

Mr. LA GUARDIA. Why should not this be limited to similar action taken on the part of the German Government?

Mr. MONTAGUE. If we did, we might find our hands tied.

Mr. LA GUARDIA. Is the gentleman aware of the fact that a good many patents are owned in Germany by American citizens?

Mr. MONTAGUE. That is true; more than are owned by German citizens in this country.

Mr. LA GUARDIA. I would want to limit that to similar action taken by the German Government.

Mr. MONTAGUE. I doubt whether it is practical to effect such an arrangement.

Mr. LONGWORTH. Mr. Chairman, will the gentleman yield?

Mr. MONTAGUE. Yes.

Mr. LONGWORTH. What effect would this bill have upon the collection of the income tax from foreigners?

Mr. MONTAGUE. The gentleman means enemy foreigners?

Mr. LONGWORTH. Yes.

Mr. MONTAGUE. I do not know how it is possible to collect it. If the foreigner had property here, it could be subjected to payment of

the tax, but I do not see how the tax could be collected in the absence of such property in this country. Perhaps there might be at the end of the war collections made in the form of offsets.

Mr. Chairman, I have not discussed this bill with the detail and continuity I anticipated, and the many interruptions have perhaps rendered my explanations unsatisfactory to the committee. The bill, Mr. Chairman, is complex, technical, and dry, but is nevertheless a great war measure, and I hope it may reach a final passage at the earliest practicable moment. I thank the committee for its attention. [Applause.]

Mr. ESCH. Mr. Chairman, I yield now to the gentleman from Wisconsin [Mr. Lenroot].

Mr. LENROOT. Mr. Chairman, I asked the gentleman from Virginia [Mr. Montague] some questions during the early portion of his speech, as to whether or not this bill in any of its particulars violated existing international law. He replied that it did not, that it was not the intention of the committee in reporting the bill to do anything other than to mitigate the harsh conditions of existing international law, and I am entirely in sympathy with the committee in that, but in section 2, defining the word "enemy," we find this language:

The word "enemy" as used herein shall be deemed to mean: Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war—

And this is the language to which I particularly wish to direct attention—

or resident outside the United States and doing business within such territory.

Section 7 of the bill makes void all contracts of every character and payments made after the beginning of the war to any such enemy. I contend that that is clearly in violation of international law, and such a violation that, if it had been made by Germany when we were neutral, would have called for notes and condemnation second only to the condemnation with which the submarine warfare was met by us. It will be observed that this is not limited to business done with the enemy by residents outside of the United States. If it were so limited, it would be proper and in accordance with existing international law, but as the language reads, if anyone outside of the United States in a neutral country has an agent in Germany for the purpose of carrying on a business which he has a perfect right to carry on under international law, the existence of that agency in Germany makes that man an enemy not only so far as the business with Germany is concerned, but so far as all business is concerned, and renders void all contracts that he has made in this country.

Mr. MONTAGUE. Mr. Chairman, will the gentleman yield?

Mr. LENROOT. Yes.

Mr. MONTAGUE. Does the gentleman think his argument is wholly sound in consideration of the proviso found in line 21, on page 9?

Mr. LENROOT. The proviso has nothing whatever to do with it, because if the payment is made to a person in Holland, we will say, and it is known at the time the payment was made that that Holland party had an agent in Germany, but that the subject of transaction had nothing to do with Germany, might have concerned England, never-

theless the contract and the payment would be absolutely void under the bill. The proviso does not in any degree limit it or rectify it. What is international law on the subject? I was amazed at the statement of the distinguished gentleman from Virginia [Mr. Montague], an eminent international lawyer, which he made in response to a question which I put to him. I asked him what we would have thought of Germany's action if, when we were neutral, Germany had undertaken, because of some American citizen carrying on some perfectly legitimate transaction with England, to render void all contracts made in Germany, had undertaken to confiscate all of the property of the American citizen in Germany, because he had done a perfectly legitimate business in England. The gentleman made the surprising statement that he believed Germany would have had the right to so confiscate the property of Americans in Germany, I am very sure upon reflection the gentleman will see that could not possibly be done without the grossest and most palpable violation of international law. Now, what is the international law upon this subject? I read first from Woolsey, page 297:

But a person having a house of commerce in the enemy's country, although actually resident in a neutral country, is treated as an enemy—

But it does not stop there—

is treated as an enemy so far forth as that part of his business is concerned, or is domiciled there *quo ad hoc*.

That is to that extent, and that extent only. And in Hall's International Law, reading from page 494, we find this:

A person thought not resident in a country may be so associated with it through having, or being a partner in, a house of trade there, as to be affected by its enemy character, in respect at least of the property which he possesses in the belligerent territory; if he is a merchant—

Mark the words "if he is a merchant"—

in two countries, of which one is neutral and the other belligerent, he is regarded as a neutral or belligerent, according to the country in which a particular transaction of its commerce has originated. Things are different when a merchant living in a neutral country and carrying on an ordinary neutral trade has merely a resident agent in the belligerent State, the agent being looked upon as only an instrument for facilitating the conduct of a trade which in other respects is not distinguishable from that of other neutral merchants.

That is the unquestioned international law upon this subject, and yet this bill, as at present framed and reported by the committee, would regard as an enemy and render void all contracts made by anyone residing in a neutral country if he did any business within the territory of an enemy, and before the committee has any right to ask this House to adopt that provision, clearly violating international law as I see it, the House is entitled to some better exposition than the gentleman from Virginia [Mr. Montague] has undertaken to give that it is justified by existing international law. Now, Mr. Chairman, it is important that the United States, as it has entered upon this war for justice and democracy, shall be careful that in the prosecution of this war it shall not itself violate plain and unquestioned principles of international law. We can not be too careful in observing international law in everything that we shall do in the prosecution of this war, and I am sure that the committee has had in mind throughout the prepara-

tion of this bill that it has no intention of violating those principles of international law, but rather to mitigate them, but the fact remains that if this bill does remain, as reported by the committee in this provision, it does violate international law, and violates it in such a way that if it had been practiced by Germany when we were neutral we would most vigorously have protested. Indeed, we all remember that while we were neutral England had what was called a blacklist and we protested then.

England made no attempt to forfeit contracts made by American citizens because of their doing business with Germany. What they attempted to do in that blacklist was to operate upon their own citizens only to prevent them from trading with certain firms. It was merely domestic and municipal legislation. It did not in the least attempt to affect the rights, duties, and obligations of any citizen of any foreign country. It may be—I would not care to discuss that now—that we would have the right to pass any legislation we choose, so far as obligations of our own citizens are concerned, and penalize them in any way we choose, but when we undertake to deal with rights and properties of citizens of neutral nations and say they shall be forfeited and confiscated, we can only do it by violating one of the plainest and most unquestionable principles of international law, and I sincerely hope before we reach the consideration of this bill under the five-minute rule the committee will see to it that this provision, so far as citizens outside the United States are concerned, will be amended so that in treating them as enemies they shall be treated as enemies only to the extent of business done by them in the enemy's territory. I yield back the balance of my time.

Mr. ESCH. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. Watson].

Mr. WATSON of Pennsylvania. Mr. Chairman, I shall speak more particularly upon section 10, relative to patents. I am not going to make a very broad address but narrow my remarks probably to one or two patents. Much has been said here to the effect that probably Germany will suffer because of the rules or laws laid down by this bill, but I feel sure that since the Federal Trade Commission has control of it, no injustice will be meted out to any alien patentee.

In the early part of the session I introduced a bill for the suspension of a patent that was issued to a citizen and resident of Germany. The administration afterwards drafted the intent of my bill in section 10 as part of the measure now under consideration. This is the first bill in the history of our legislation to suspend a patent owned by an enemy. The Department of Justice, in its judgment, did not advise this step without compensation to the patentee. The Magna Carta, which guaranteed the rights and privileges to the English barons, contained the principle that "merchant strangers are, upon the breaking out of war, to be attached and kept without harm to body and goods until it should be known how English merchants are treated by the sovereign of their State, and if the latter are safe there then the former are to be safe here."

In the case of Brown against the United States, Chief Justice Marshall said, "It is urged, in executing the laws of war, the Executive may seize and the courts condemn all property, which according to

the modern laws of nations is subject to confiscation, although it might require an act of legislation to justify the condemnation of that property which according to modern usage ought not to be confiscated." Thus the rule of civilized nations is to favor moderation and humanity in dealing with the property of an enemy in time of war.

This section has been drawn with the view of carrying out those reasonings under rules and regulations prescribed in section 12. On account of the conditions issuing out of the war trade relations for a time between the people of Germany and ourselves will be abandoned. There are many German drugs covered with American patents that are extensively used in this country but manufactured in Germany, and have become indispensable to the medical world. It is for the public welfare that these drugs be manufactured in America in order to obtain them. An infection prevails in the Army and Navy—not necessarily originating from camp life—but an infection most important to be eradicated in order that greater efficiency may be obtained from our officers, soldiers and sailors. The German remedy to which I allude is 30 times more effective than any other known drug. Chemical history reveals that our Army is more infected than any other in the world, being 16.77 percent among the younger men and a larger percentage among the older. It is impracticable to extend to every recruit a complete physical examination; the infection becomes known after his enlistment, and then he is a patient under the care of the Government. I have been informed by the medical department of the Council of National Defense that 100,000 ampuls are needed at once, and that it is impossible to obtain them even at the market price of \$4.50 per ampul, which represents one dose. Before the war the price was \$2.50 an ampul. The office of the Surgeon General reports that during the year 1914 the Army purchased 9,380 ampuls, and during the fiscal year of 1917 to June 1 the Army purchased 2,074 ampuls at a cost of \$9,344, nearly \$4.50 an ampul.

To show the very great importance of this I ask that the letter from Surg. Gen. Gorgas be read.

The Clerk read as follows:

WAR DEPARTMENT,
Washington, April 25, 1917.

HON. HENRY W. WATSON,
House of Representatives, Washington, D.C.

MY DEAR MR. WATSON: In reply to your favor of the 24th, inclosing copies of H.R. 3768, 3769, 3770, and 3771, I have the honor to inform you that salvarsan or its equivalent is now considered an indispensable remedy in the treatment of syphilis. Being produced by German manufacture under the protection of American patents, the existing conditions have caused great difficulty in obtaining the drug. A limited quantity is obtainable from the Farbwerke Hoechst Co., who it is understood are the agency in this country, under the management of Mr. Metz for the German producers. The Medical Department has been obliged to pay the agency \$4.50 a dose for all supplies recently obtained as compared with \$2.50 before the war.

The Dermatological Institute in Philadelphia can make this same material, which it designates arsenobenzol. Arsenobenzol is an entirely satisfactory substitute for salvarsan, and Dr. Schamberg, the director of the institute, informs me it could be sold for \$1 a dose or less, were the patent laws not in question.

I should be very glad if it were possible to abrogate or suspend the patents upon salvarsan or if some other step could be taken that would enable us to purchase arsenobenzol in quantities needed in the Army.

Very truly yours,

W. C. GORGAS, *Surgeon General.*

Mr. LA GUARDIA. Will the gentleman yield right there?

Mr. WATSON of Pennsylvania. I yield to the gentleman from New York.

Mr. LA GUARDIA. Is the gentleman aware of the results of this Philadelphia preparation?

Mr. WATSON of Pennsylvania. To a degree.

Mr. LA GUARDIA. Has it been as successful as the original salvarsan?

Mr. WATSON of Pennsylvania. I think so.

Mr. LA GUARDIA. Is it not true that the doctors would not use it because they could not obtain the same results?

Mr. WATSON of Pennsylvania. On the contrary.

Mr. LA GUARDIA. Is it not true that a preparation has been made in Canada and that the doctors of this country have used it in the hospitals and that they say that it is not satisfactory?

Mr. WATSON of Pennsylvania. I do not know it.

Mr. LA GUARDIA. The hospitals in New York have made a practical investigation of it——

Mr. WATSON of Pennsylvania. I am not fighting for Canada, but for America.

Mr. LA GUARDIA. Is it not true that the salvarsan people in New York are in a position to make it and put it on the market?

Mr. WATSON of Pennsylvania. They are not. I have a letter from them stating that they are not able to put it on the market.

Mr. LA GUARDIA. I have a letter saying that they can.

Mr. WATSON of Pennsylvania. They asked the Philadelphia people to manufacture it for them, and they have been promising the Government to supply its needs, but they are unable to do so.

Mr. LA GUARDIA. The trouble is that they can not make the preparation in this country.

Mr. WATSON of Pennsylvania. I can not yield further, as I have but a few minutes left.

If this bill is enacted the drug can be manufactured for \$1 per ampul and within a year at a much lower cost. The medical profession is in need of 3,000 ampules per diem to treat the cases under their care. The statistics from a Government report issued by the authority of the Surgeon General show that 20 per cent of the adult male population of the United States, that 22.10 per cent of the inmates of the soldiers' homes, and that 21.65 per cent of the Army prisoners are infected, and further, "that the infection is a greater menace to the public health than any other infectious disease, not even excepting tuberculosis."

It is of great consequence to preserve the health of the men of our Army and Navy in order to procure the best of service, and it is quite as essential to guard the sanity of the public, from whom our soldiers must be conscripted in the future. Grave responsibilities have been forced upon our Government by the great nations of the continent, and no man can foretell how they may affect our Constitution or change our present policies. We are therefore compelled to use every honorable means to terminate the war. The youth of America are fast developing into the highest type of soldiers, for in them we find intelligence and patriotism combined. The old Roman maxim is imprinted in their hearts, "*Dulce et decorum est pro patria mori.*"

It is greater to be an American than ever it was to be a Roman. Rome rose to the zenith of her power by the might of the sword,

America by the love of liberty. [Applause.] Liberty, love, and home are the three sweetest words in the English language, and by those words we will preserve the perpetuity of our Republic. [Applause.]

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. WATSON of Pennsylvania. I yield to the gentleman from Pennsylvania.

Mr. MOORE of Pennsylvania. I dislike to disturb the effect of that beautiful peroration, but as the gentleman is a prominent member of the Committee on Patents I desire to interrogate him before he yields the floor. I have a recollection that the gentleman introduced a bill covering the matter of the manufacture in the United States of salvarsan, a German patented product about which many physicians have been memorializing Congress. Do the provisions of this bill embody the points covered in the bill introduced in the House by the gentleman?

Mr. WATSON of Pennsylvania. My bill was simply to suspend the patent, without any provisions. This bill is broader and takes care of the German patentees.

Mr. MOORE of Pennsylvania. The point was to obtain for the United States this German product, which we have been unable to get by reason of the German patent. The gentleman's bill proposed to cover that?

Mr. WATSON of Pennsylvania. My bill covers the point—in order to suspend the patent during the time of the war.

Mr. MOORE of Pennsylvania. And what the gentleman had in his bill is incorporated in the present trading-with-the-enemy bill?

Mr. WATSON of Pennsylvania. Yes. In order that the product may be obtained in this country, as the letter from the Surgeon General says it is greatly needed.

Mr. MOORE of Pennsylvania. In effect, then, we are making a short cut to the purposes intended by the gentleman when he introduced his bill?

Mr. WATSON of Pennsylvania. Yes.

Mr. MANN. Will the gentleman yield for a question?

Mr. WATSON of Pennsylvania. I yield to the gentleman from Illinois.

Mr. MANN. I have not given as much attention to this bill as perhaps I should have given it if I had been here all of the time, but I would like to ask the gentleman a question. Under the terms of this bill a German-owned patent may be worked in the United States, as I understand it, on obtaining a license and upon the payment of 5 per cent of the gross receipts as royalties?

Mr. WATSON of Pennsylvania. Yes. If the sales are \$10,000, then the German patentee would get \$500. If he is not satisfied with the \$500, then he has the right to sue for the sum which he thinks he ought to have.

Mr. MANN. After the war he can commence suit?

Mr. WATSON of Pennsylvania. After the war is ended, within the year, he can commence suit.

Mr. MANN. If he can commence suit after the war is ended, how does the licensee know on what basis he can carry on the business?

Mr. WATSON of Pennsylvania. The person who obtains the license knows he must not only pay \$100 for the license but must also pay 5 per cent.

Mr. MANN. He does not know how much more he will have to pay?

Mr. WATSON of Pennsylvania. Under this bill the patentee may sue for a much greater sum than the 5 per cent if he feels that this amount is insufficient.

Mr. MANN. How is that going to get people to work the patent?

Mr. WATSON of Pennsylvania. I do not know, except in cases such as I have just alluded to, where it is very important. The people will be willing to take a risk. In the case of ordinary patents I fancy they would not.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield to me for a further question?

Mr. WATSON of Pennsylvania. Yes; with pleasure.

Mr. MOORE of Pennsylvania. Is there anything in the patent law which requires a foreign patentee to manufacture in the United States?

Mr. WATSON of Pennsylvania. Not so far as I know.

Mr. MOORE of Pennsylvania. Is it not a fact that England requires of one to whom a patent is issued that manufacture shall ensue within the jurisdiction of England?

Mr. WATSON of Pennsylvania. Yes; for instance, in the case of a war with Germany, or any war, if a foreigner obtains a patent in England, and the foreigner refuses to manufacture that patent, a subject of Great Britain has the right to manufacture it within a certain time.

Mr. MOORE of Pennsylvania. In other words, while Great Britain grants a patent, it controls it in any event?

Mr. WATSON of Pennsylvania. Yes.

Mr. MOORE of Pennsylvania. And that is what we have failed to do in the United States?

Mr. WATSON of Pennsylvania. Yes; our laws should be amended in order that we may exercise our control over patents issued to foreigners.

Mr. MONTAGUE. Mr. Chairman, I yield 20 minutes to the gentleman from Pennsylvania [Mr. Dewalt].

The CHAIRMAN (Mr. McKeown). The gentleman from Pennsylvania is recognized for 20 minutes.

Mr. DEWALT. Mr. Chairman and gentleman of the committee, necessarily in the consideration of this bill we have to do considerably with the question of international law. In fact, as far as we have already gone there has been considerable discussion in regard to that subject. Primarily it should be understood by the members of this committee that during a state of war the sovereign belligerent power has plenary powers. It has the absolute right of confiscation, if you please. It has the undoubted right of use. In other words, the sovereign belligerent power, as against the citizens of the other belligerent, has unlimited powers unless one thing is provided, and that one thing is if there be an existing treaty which operates against that international law.

Now, I know of no clearer explanation of the definite powers given to belligerents under international law than is expressed in the case of the Insurance Co. against Davis. In the starting and beginning of this argument it might be well to refresh our minds upon that subject. Now, what is it? I read:

That war suspends all commercial intercourse between the citizens of two belligerent countries or States except so far as may be allowed by the sovereign authority, has been so often asserted and explained in this court within the last 15 years, that any further discussion of that proposition would be out of place.

As a consequence of this fundamental proposition it must follow that no active business can be maintained, either personally or by correspondence, or through an agent, by the citizens of one belligerent with the citizens of the other. The only exception to the rule recognized in the books, if we lay out of view contracts for ransom and other matters of absolute necessity, is that of allowing the payment of debts to an agent of an alien enemy, where such agent resides in the same State with the debtor. But this indulgence is subject to restrictions. In the first place, it must not be done with the view of transmitting the funds to the principal during the continuance of the war; though, if so transmitted without the debtor's connivance, he will not be responsible for it. *Washington, J., in Connecticut v. Pennsylvania* (Pet. C. Ct., 496); *Buchanan v. Curry* (19 Johns (N. Y.), 141). In the next place, in order to the subsistence of the agency during the war, it must have the assent of the parties thereto—the principal and the agent. As war suspends all intercourse between them, preventing any instructions, supervision, or knowledge of what takes place, on the one part, and any report or application for advice on the other, this relation necessarily ceases on the breaking out of hostilities, even for the limited purpose before mentioned, unless continued by the mutual assent of the parties. It is not compulsory; nor can it be made so, on either side, to subserve the ends of third parties. If the agent continues to act as such, and his so acting is subsequently ratified by the principal, or if the principal's assent is evinced by any other circumstances, then third parties may safely pay money for the use of the principal into the agent's hands, but not otherwise. It is not enough that there was an agency prior to the war. It would be contrary to reason that a man, without his consent, should continue to be bound by the acts of one whose relations to him have undergone such a fundamental alteration as that produced by a war between the two countries to which they respectively belong; with whom he can have no correspondence, to whom he can communicate no instructions, and over whom he can exercise no control. It would be equally unreasonable that the agent should be compelled to continue in the service of one whom the law of nations declare to be his public enemy.

Now, I cite this case of Davis and the insurance company simply for the purpose of surely establishing, by this edict of the Supreme Court, what the relation of the parties who are belligerent to each other clearly are during the continuance of the war; in other words, to reaffirm what I stated in the beginning, that the sovereign power has the absolute right of confiscation if it seeks and determines to enforce it.

Now, the purposes of this bill, may it please the committee, are not for a strict enforcement of the provisions of international law, but they are really in amelioration thereof. They are a relaxing of the strict tenor and effect of international law.

I was rather surprised at my friend from Wisconsin [Mr. Lenroot] when he stated as an absolute fact, as a primary fact in international law, that the belligerent power and sovereign power of the Government had no right either to suspend or to take over the contracts of a citizen of a belligerent power, or of a citizen of a neutral country who was living in the belligerent country.

MR. LENROOT. Mr. Chairman, will the gentleman yield there?

MR. DEWALT. Yes.

MR. LENROOT. The gentleman should not attribute that statement to me.

MR. DEWALT. That is what I understood the gentleman to say.

MR. LENROOT. No; I made no such statement. What I said was that a belligerent had no right to sequester the property of a neutral with reference to the business of that neutral outside of the belligerent country.

MR. DEWALT. That is a different proposition. I did not so understand the gentleman.

Now, the fact of the matter is this, that as to the power of the belligerent Government, and in our case as to the power of the United States, as fixed by international law, we have the determinate right of confiscation if we desire to use it in regard to every dollar's worth of property of any alien enemy wherever he has residence. But this bill does not go as far as that, and it is well for some of those who are vitally interested in the welfare of those who are not naturalized citizens of the United States, and who are really aliens to this territory, to consider primarily this important fact, that the enemy as described in this bill is not described in terms of nativity, if you please, or in terms of citizenship, but he is described in terms of locality.

What do I mean by that? The enemy is a party who lives in enemy territory, or who lives in territory of the allies of the enemy, and it makes no difference whether that party be a citizen of the United States or whether he be a citizen of the alien country. In other words, to repeat what I have tried to make clear, the enemy description is a local description. It is not one of nativity, or of naturalization, or of citizenship. Therefore this bill primarily sets forth to do this, that it does not in any way affect anyone who is a resident of Germany, if you please, now living in the United States, nor does it affect in any way a party who is, if you please, a resident of Austria and who is now temporarily here, or who has been here for continued time. The same thing applies to citizens of Turkey and of Bulgaria, except in so far as the bill provides that if the emergency demands and the necessities of the case arise the President may by proclamation make those parties who are residents of this country and who are citizens of Germany, or Turkey, or Bulgaria, or Austria, subject to the provisions of this act.

Mr. MOORE of Pennsylvania. Will the gentleman yield at that point?

Mr. DEWALT. Certainly.

Mr. MOORE of Pennsylvania. The gentleman recalls the discussion about holders of Pennsylvania Railroad stock?

Mr. DEWALT. I do.

Mr. MOORE of Pennsylvania. Let us take another illustration which will get nearer to the plain people, that of holders of building association stock, with whom I assume the gentleman is familiar. Taking the gentleman's description of alien residents, does this bill mean that a German alien resident in the United States would be liable to have his stock in a building association seized?

Mr. DEWALT. No; it does not in any way affect the rights of any citizen of any enemy country who is a resident of this country, unless the President, by proclamation, determines that that party shall be thus affected.

Mr. MOORE of Pennsylvania. To put it plainly, so that a layman like myself may understand it, a resident of my city who is an alien—

Mr. DEWALT. Who is a German by birth and who never has been naturalized—

Mr. MOORE of Pennsylvania. Yes—owns stock in a building association.

Mr. DEWALT. His rights will not be affected by this bill one iota.

Mr. MOORE of Pennsylvania. But if a German alien resident in Germany, or in any other unneutral country—

Mr. DEWALT. Or in any country, the ally of Germany—

Mr. MOORE of Pennsylvania. Yes—owns stock in a building association or railroad, that would be taken into custody.

Mr. DEWALT. And placed in the hands of the alien-property custodian, and the disposition thereof would await the determination of an act of Congress after the war.

Mr. MOORE of Pennsylvania. So that an alien resident of the United States would not be affected in his property rights by this bill?

Mr. DEWALT. He would be absolutely unaffected, unless he misbehaved himself and the President of the United States by special proclamation made him subject to the provisions of this act.

Mr. MOORE of Pennsylvania. Exactly. That makes it clear.

Mr. MANN. Does it require a special proclamation?

Mr. DEWALT. When I used the word "special" I meant special in regard to the subject, and not in regard to the individual.

Mr. MANN. It is not a matter of misbehaving. It is a matter of opinion of the President as to whether it is desirable to cut off all communication.

Mr. DEWALT. I should judge that is the primary idea; yes.

Mr. MOORE of Pennsylvania. Will the gentleman yield for one more question?

Mr. DEWALT. Certainly. We are all here for information, and if I have it I will give it. If not, I will refer the gentleman to some one else.

Mr. MOORE of Pennsylvania. The gentleman is a member of the Committee on Interstate and Foreign Commerce, and I am now addressing him as the spokesman of that committee. Does this bill have the approval of the President of the United States?

Mr. DEWALT. This bill, as I understand from the information I have received, not only from the chairman of the committee but from the membership of the committee, is the draft of the Department of Justice partially, the Patent Office partially, and the Department of Commerce as well, and has the approval, if you so choose to call it, of the administration.

Mr. MOORE of Pennsylvania. By whom was it indorsed before the Committee on Interstate and Foreign Commerce?

Mr. DEWALT. Mr. Warren appeared. He is one of the assistant attorneys general. Mr. Redfield also appeared.

Mr. MOORE of Pennsylvania. Mr. Warren, of the Department of Justice?

Mr. DEWALT. Yes.

Mr. MOORE of Pennsylvania. Mr. Redfield, of the Department of Commerce?

Mr. DEWALT. Yes.

Mr. MOORE of Pennsylvania. And Secretary Lansing?

Mr. DEWALT. I believe Secretary Lansing did not appear in reference to this bill.

Mr. SNOOK. Yes; Secretary Lansing, also.

Mr. DEWALT. Yes; he did appear in reference to this bill, as well as to another one.

Mr. MOORE of Pennsylvania. Then, it may be stated authoritatively that this is an administration measure.

Mr. DEWALT. That is possibly a definition which is subject to the ideas of the party who seeks to define. I would not call it an admin-

istration matter. I would call it a matter of general public interest which the administration desires for the public welfare.

Mr. MOORE of Pennsylvania. There is just this about that, if the gentleman pleases: Many Members of Congress on both sides of the political aisle are expected to stand by the President of these bills.

Mr. DEWALT. Yes.

Mr. MOORE of Pennsylvania. I assume it would help the passage of this bill very much if it were known that the President approved it.

Mr. DEWALT. No better proof of that could be obtained than the fact that his Secretary of Commerce, his Secretary of State, and a representative of his Attorney General all appeared in person and advocated the provisions of the bill. Of course, the bill as reported was changed somewhat from the bill as originally presented.

Mr. MOORE of Pennsylvania. Does this bill follow the English form?

Mr. DEWALT. It is not as drastic as the English form. It follows the English form, but it is not as severe.

Mr. MOORE of Pennsylvania. It may be called an American bill, then? It originated in this country?

Mr. DEWALT. It did.

Mr. MOORE of Pennsylvania. And it originated in the departments of this administration?

Mr. DEWALT. So far as I know, that is the fact; yes.

Mr. STEELE. Will the gentleman yield?

Mr. DEWALT. Yes.

Mr. STEELE. Have your committee considered this bill in connection with any treaty obligation?

Mr. DEWALT. We have.

Mr. STEELE. Is there anything in the provisions of this bill that would violate the treaty with Prussia of 1828?

Mr. DEWALT. Nothing. I am glad the gentleman referred to it, although it is rather out of the line of my sequence of argument; but the provision which the gentleman refers to is this:

If war should arise between the two contracting parties the merchants of either country then residing in the other shall be allowed to remain nine months to collect their debts and settle their affairs, and may depart freely, carrying off all their effects without molestation or hindrance.

Now, if the gentleman will observe, that article 23 of this treaty has reference to whom? "The merchants of either country then residing in the other." Bearing in mind that specific definitive mark as to the contracting parties, namely, that they shall be merchants then residing in one or the other of the countries, and knowing also that this bill does not in any way affect the alien whether he be merchant or otherwise who is residing in this country, and that the description of the enemy is a local description, and that the enemy must be resident in the territory which is hostile or a territory of the allies hostile to this country, then you will clearly see that this provision does not in any way affect merchants resident in this country.

Mr. STEELE. Will the gentleman permit another question?

Mr. DEWALT. Certainly.

Mr. STEELE. In the discussion of this morning reference was made to some provision in this bill being confiscatory. The Hague Convention of 1907, to which the United States and Germany were both sig-

natory parties, provided against the confiscation of private property in the event of war between any parties to the convention.

Mr. DEWALT. Yes.

Mr. STEELE. Are any of the provisions of this bill in violation of that convention?

Mr. DEWALT. Absolutely none, and I think it was in conformity with that idea that the proclamation of the President as early as last June was made reaffirming the doctrine that private property should not be confiscated and that the provisions of this bill were made as they are. If the gentleman has studied the bill, as I have no doubt he has, for I know his assiduity as a student and his carefulness as a lawyer, he will see clearly that instead of its being confiscatory in its nature it is in the nature of a requisition of property and a conservation of the property in the hands of the trustee, who is to hold it in escrow until the termination of the war, when this property is to be returned to the legal owner thereof subject to the equities existing between the parties.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. DEWALT. Mr. Chairman, I shall have to have some more time.

Mr. MONTAGUE. How much more time does the gentleman want?

Mr. DEWALT. How much time can the gentleman give me—15 minutes?

Mr. MONTAGUE. I yield to the gentleman from Pennsylvania 15 minutes more.

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. DEWALT. As soon as I get through with the inquisitor on my right, I will yield to the gentleman on my left.

Mr. STEELE. Under the provisions of this bill, no property is forfeited to the public.

Mr. DEWALT. No property is forfeited.

Mr. STEELE. The holding of the property by the public agent is only for the benefit of the owner of the property?

Mr. DEWALT. Precisely so. Now, I will yield to the gentleman from Illinois.

Mr. GRAHAM of Illinois. The gentleman read an extract from what treaty convention?

Mr. DEWALT. Article 23 of the Prussian treaty of 1799. The gentleman will find it on page 644 of Senate Document, volume 37.

Mr. GRAHAM of Illinois. I am somewhat familiar with that. Does the gentleman contend that that treaty or any other treaty with Prussia is still in force?

Mr. DEWALT. I do not. I think they are all abrogated by the conduct of Germany. My position is very clear and emphatic on that.

Mr. CHANDLER of New York. Does the gentleman say that hostilities between nations abrogate treaties between the belligerents?

Mr. DEWALT. It does not necessarily. If the conduct of any belligerent at war with another party, with whom we are not at war, as against us, a neutral, having a treaty with one of the belligerents, is so outrageous as to make us declare the treaty abrogated, we should abrogate it at once.

Mr. CHANDLER of New York. We have declared that they are abrogated and repudiate them.

Mr. DEWALT. Certainly.

Mr. ROSE. Will the gentleman yield?

Mr. DEWALT. I beg the gentleman's pardon, but I have only 10 minutes remaining and I have not time to yield. This power of the sovereign is so great that it oftentimes presents itself in the oddest of instances. Let me refer the committee to a very noted case, that of Mottley against the Nashville Railroad Co., and see how far the powers of Congress can go in reference to matters of this sort. It is found on page 480, volume 219, United States Reports, and I desire to state only the doctrine so as to enforce what I have already said in regard to the powers of the Government.

This is from the opinion of Justice Harlan:

In the Addyston Pipe case, this court said that, under its power to regulate commerce, Congress "may enact such legislation as shall declare void and prohibit the performance of any contract between individuals or corporations where the natural and direct effect of such a contract will be, when carried out, to directly, and not as a mere incident to other and innocent purposes, regulate to any substantial extent interstate commerce."

Applying that in the same opinion, he said:

As in a state of civil society, property of a citizen or subject is ownership, subject to the lawful demands of the sovereign, so contracts must be understood as made in reference to the possible exercise of the rightful authority of the Government, and no obligation of a contract can extend to the defeat of legitimate Government authority.

This case was rather peculiar, and I desire to cite it for this particular purpose. Mottley was a passenger on the Louisville & Nashville Railway. He met with an accident. In consideration for his settlement of the case, they gave him an annual pass. After he had enjoyed the privileges of this annual pass for a number of years Congress passed an act by which it declared that no railway company could, under any circumstances, accept anything except money or the equivalent thereof for transportation. In other words, they forbade the giving of passes. Mottley had settled his case, and in consideration or part consideration he had received a pass. He asked for his pass and they refused to grant him an extension of the same. He then brought mandamus proceedings in the Kentucky courts to enforce his rights. The Kentucky courts affirmed his rights and said that the railroad company must regrant the pass. The case was carried to the Supreme Court of the United States and, in this decision I have just read, Mr. Justice Harlan states this rule and lays it down flatly, that although the man was paid a consideration, namely, the settlement of his case with the railroad company, although he had enjoyed the rights of that pass for a number of years, yet when Congress passed an act declaring that he did not have the right to the pass, that the railroad company had no right to issue a pass, that was the end of the matter. And now I am coming to the point that the gentleman who has this bill in charge delegated me to speak upon, namely, What is the right of a patentee under the Government of the United States? Because if he has a vested right for 17 years to the exclusive enjoyment of that privilege, then he has a property right, and under the decision in this Louisville & Nashville case that property right is always sub-

ject to what? It is subject to the sovereign power of the United States Government which at any time, according to its necessities, may declare, first, that that right given to him, either exclusive or in part with others, can be declared void.

That being the law it follows as a matter of legal sequence that, as to patents issued by foreign countries enjoyed in this country or as to patents issued to residents of foreign countries by the United States, the sovereign power has the right to do what? It has the right to confiscate, if you please, that patent, it has the right to make sole use of that patent under this decision, and the right to declare that the foreign patentee who obtained his patent in the United States can no longer use the same in any regard and obtain no profits or emoluments therefrom; but this bill does not go so far as that. This bill says this: That where the patentee is a foreigner he shall have his rights suspended during the war unless he receives a license from the Government to go on with his patents. The bill goes further than that. The bill goes so far as to say that if the patentee be a foreigner and has obtained a patent in the United States, that then any citizen of the United States may apply to the United States Government and obtain from the Federal Trade Commission a license to operate under that patent; but in consideration of so operating the sublicensee, I shall call him, or the subpatentee, must do what? He must pay 5 per cent of what? First, 5 per cent of the gross receipts if that is demanded. If, however, that is not demanded, or if it is thought that that is not commensurate with the value of the patent, then he has to pay 5 per cent of the value use of that patent as determined by the Federal Trade Commission. This 5 per cent is to be paid to the Treasury of the United States and it is to remain there during the continuance of hostilities; and upon the declaration of peace then what happens? Then the original patentee has the right to demand of the subpatentee that he be reimbursed, and he gets his reimbursement from this 5 per cent, or if not from the 5 per cent thus deposited, he gets his reimbursement from the 5 per cent of the gross value of the use of the patent. This I make as clear as I can in order to inform my friend, Mr. La Guardia, in order that he may know perhaps more definitely the rights of the patentee and the licensee.

Mr. LA GUARDIA. I thank the gentleman, but I do not agree with his law.

Mr. DEWALT. It may be that the gentleman does not agree with it, but after all it is conservation of the property. He has received a license from the United States, and that property should be used by the granting power if it becomes necessary during a state of war.

Mr. LA GUARDIA. I do not agree with the analogy drawn by the gentleman from the Mottley case.

Mr. DEWALT. Reasoning by analogy is always dangerous, particularly when the other fellow does it.

Mr. McKEOWN. Is it not a fact that Russia has already confiscated German patent rights?

Mr. DEWALT. Russia is the only belligerent country that has done that. The rest of the countries have still observed the amenities of the situation, and have not forfeited the patents. This is not a new theory as to patent rights, and it is not a new theory as to confiscation, as some

have it, of property. We call it a requisition of property, a conservation of property. During the Civil War this same thing was done in regard to property, and by reading the report of Gov. Montague, or rather the testimony in regard to this matter when pending before the committee, the gentlemen of this committee will find a long list of cases, all of which reaffirm and clearly establish the right of the Government even if confiscation is necessary or the granting of licenses for the permission of doing business. Now, I have as clearly as I possibly could explain what I believe to be the vital and pivotal points in regard to this matter of licensing under the rights of the original patentee. However, there is one thing that should be remembered as well. After the subpatentee, as I call him, gets a privilege from the Government, the Government does not give him by this act an unrestricted privilege, but still holds a check upon the valuable right which it has given to the original patentee, and gives to this subpatent or license a right under the original patent, for how long? "We will give it to you for such time as we deem proper. and, more, we will give it to you for such time as you obey the regulations which we enforce from time to time."; and to make it liberal, so that no man will lose by going into the venture, they say this: "If in the meantime you invest large sums of money for the establishment of plants or other means of production, then you shall be granted a license to operate under this patent during the lifetime of the patent, or so long as we find that it is necessary to remunerate you and to recompense you the outlay you have made."

Now, the value of this matter is very clear. There are millions and millions of dollars' worth of remuneration annually coming from the use of these patents that are held by foreign patentees. Resuming the argument, then, gentlemen, this is a privilege given by a sovereign power, given for a period of 17 years, and if that sovereign power has the right to revoke and annul that privilege at any time, it may do that according to the necessities of the Government in a state of war; then it follows, as a matter of clear reasoning, that if it has the power to annul it has also the power to restrict, and if it has the power to restrict, then it has the power to grant a sublicense, and if it has the power to grant a sublicense-it has the right to define the terms upon which those sublicenses shall be granted; and then the United States Government steps in and says, "We grant this license, this subpatent, to a citizen of the United States." And then he must do what? He must pay a license fee of \$100 as provided by the act, and must also pay the sum of 5 per cent, as above stated, of the gross receipts for the use of the patent, or 5 per cent of the value of the use of the patent as determined by the Federal Trade Commission. At the end of the war the alien who has a patent right originally from the Government is recouped, and how does he get it? He gets it from the United States Government, which is holding in escrow this 5 percent from the gross receipts, or 5 percent of the value of the patent.

The CHAIRMAN. The time of the gentleman has again expired.

* * * * *

[Mr. SNOOK]. . . . The title of the bill now under consideration is "To define, regulate, and punish trading with the enemy, and for other purposes." This advises us that it is a war measure.

A study of the act shows that it deals with questions and situations growing out of the war in which we are now engaged; in fact, the hearings show clearly that it was a study of questions connected with and growing out of the war as presented to the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the Attorney General in the daily conduct of their official duties which suggested the preparation of this measure and a determination by these officials to bring the matter before Congress.

In speaking of the bill as originally presented to the Committee on Interstate and Foreign Commerce, Secretary Redfield says a committee was appointed, representing four departments—the State Department, the Department of Justice, the Treasury Department, and the Department of Commerce—to consider what we should do in this particular matter. That committee gave this subject very, very thoughtful study. The committee was composed of Assistant Attorney General Charles Warren, the Comptroller of the Currency, Mr. Woolsey, the Solicitor nominate of the Department of State, and Dr. Pratt, the Chief of the Bureau of Foreign and Domestic Commerce of the Department of Commerce. They went over the matter for weeks with very great care. They submitted their draft of a bill to the Secretary of State, the Attorney General, the Secretary of the Treasury, and myself. We made a number of comments upon it, and it was returned to them. It was then again studied with great care, and this is the result of their unanimous report, which was, in substance, conveyed to you.

The language of Secretary Redfield in this respect will answer the question, to some extent, that was asked by the gentleman from Pennsylvania [Mr. Moore] as to whether this bill has the indorsement of the committee or not.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. SNOOK. Yes.

Mr. MOORE of Pennsylvania. The gentleman is also a prominent member of the Committee on Interstate and Foreign Commerce, and I would like to have an expression from him as to whether he regards this as an administration measure, one that the President deems necessary for the proper prosecution of the war?

Mr. SNOOK. I can not answer the gentleman in any other way than by the answer of my colleague from Pennsylvania [Mr. Dewalt] and by the statement I have just read from the Secretary of Commerce.

Mr. MOORE of Pennsylvania. Secretary Redfield, having originated the movement, conferred with his colleagues in the Cabinet, and some of them appeared before the committee. But what I am interested in knowing, and what some of my colleagues are interested in knowing, is whether the President is interested in this?

Mr. SNOOK. Doubtless he is.

Mr. MOORE of Pennsylvania. So it may be regarded as an administration measure?

Mr. SNOOK. I can not say as to that. The gentleman can put it that way if he likes.

Mr. MOORE of Pennsylvania. If the gentleman pleases, it is a serious question. The people are asked to support the President in the prosecution of this war.

Mr. SNOOK. I understand the gentleman's position.

Mr. MOORE of Pennsylvania. And it may be that a great deal of the legislation that we are passing is not what the President wants and feels is necessary for the prosecution of the war.

Mr. SNOOK. I have no doubt he feels that this is necessary.

Mr. MOORE of Pennsylvania. I wanted to get the gentleman's view. That is his opinion.

Mr. SNOOK. The courts of all the civilized countries hold it to be the law that war suspends all commercial intercourse between the citizens of two belligerent countries or States, except so far as may be allowed by sovereign authority.

In time of war, therefore, some such law as the one under consideration becomes a necessity. The rule of law to which I have referred is announced by the Supreme Court of the United States in the case of *United States v. Lane* (8 Wall., p. 195) in the following language:

At the time this contract purports to have been made this country was engaged in war with a formidable enemy, and by a universally recognized principle of public law commercial intercourse between States at war with each other is interdicted. It needs no special declaration on the part of the sovereign to accomplish this result, for it follows from the very nature of war that trading between belligerents should cease. If commercial intercourse were allowable it would sometimes be used as a color for intercourse of an entirely different character, and in such case the mischievous consequences that would ensue can be readily foreseen. But the rigidity of this rule can be relaxed by the sovereign, and the laws of war so far suspended as to permit trade with the enemy. Each State settles for itself its own policy and determines whether its true interests are better promoted by granting or withholding licenses to trade with the enemy.

There seems to be but one exception to this rule; this exception is explained by the Supreme Court in the case of *Insurance Co. against Davis*, in *Ninety-fifth United States*, page 425, where that court announces the rule laid down in the *Lane* case and then explains the exception in the following language:

The only exception to the rule recognized in the books, if we lay out of view contracts for ransom and other matters of absolute necessity, is that of allowing the payment of debts to an agent of an alien enemy where such agent resides in the same State with the debtor. But this indulgence is subject to restrictions. In the first place, it must not be done with the view of transmitting the funds to the principal during the continuance of the war, though, if so transmitted without the debtor's connivance, he will not be responsible for it. (*Washington, J.*, in *Conn. v. Penn. Pet. C. Ct.*, 496: *Buchanan v. Curry*, 19 Johns, (N.Y.), 141.) In the next place, in order to the subsistence of the agency during the war, it must have the assent of the parties thereto—the principal and the agent. As war suspends all intercourse between them, preventing any instructions, supervision, or knowledge of what takes place on the one part and any report or application for advice on the other, this relation necessarily ceases on the breaking out of hostilities, even for the limited purpose before mentioned, unless continued by the mutual assent of the parties. It is not compulsory, nor can it be made so on either side to subserve the ends of third parties. If the agent continues to act as such, and his so acting is subsequently ratified by the principal, or if the principal's assent is evinced by any other circumstances, then third parties may safely pay money for the use of the principal into the agent's hands, but not otherwise. It is not enough that there was an agency prior to the war. It would be contrary to reason that a man, without his consent, should continue to be bound by the acts of one whose relations to him have undergone such a fundamental alteration as that produced by a war between the two countries to which they respectively belong, with whom he can have no correspondence, to whom he can communicate no instructions, and over whom he can exercise no control. It would be equally unreasonable that the agent should be compelled to continue in the service of one whom the law of nations declares to be his public enemy.

Before analyzing the provisions of the bill I might say that this exception is recognized, and situations growing out of facts such as are discussed in this exception are provided for in the proviso found on the bottom of page 9 and top of page 10 of the bill.

Inasmuch as under the law as stated in the cases from which I have quoted practically no commercial intercourse can be carried on between two citizens of belligerent countries or States except so far as allowed by the sovereign authority, it follows that it becomes necessary to have some exercise of that authority. This is attempted to be done by this bill, as it attempts to define what things a law-abiding citizen may do and what he may not do in regard to his commercial intercourse with an enemy, and what disposition he may make of the property of an enemy that may come into his hands or under his control.

Exercising the sovereign authority to make clear just what a citizen may do, what he may not do, and what he should do the bill defines certain terms and lays down certain rules which I shall undertake to analyze as briefly as possible.

Section 2 defines the words "enemy and ally of enemy"; these being the persons or classes of persons with whom trade is forbidden except as provided in the law. An enemy is any person resident of the nation with which we are at war or resident outside of the United States and doing business within such nation with which we are at war.

This provision is the one which the gentleman from Wisconsin [Mr. Lenroot] criticized, and I am inclined to think that in connection with section 7, subdivision (b), there is something to his criticism. I want to be fair and frank. Because the bill comes from the committee of which I am a member I do not feel that I am certain that it is not open to honest amendment in the House. And I wish to say, in connection with this subdivision (b), of section 7, there is something to the criticism which the gentleman made in this regard, and I think that can be remedied by an amendment which will be offered probably before the bill comes to passage.

Any corporation formed within a nation with which we are at war or formed within any country other than the United States and doing business within such nation.

The Government of any nation with which we are at war or any of its divisions, agents, or agencies.

It is plain to be seen that this is an essential provision, because the Government with which we are at war or any of its agencies or divisions would certainly come within the term "enemy" as described in this or any other measure along this line.

Such other persons as may be natives or are subjects of any nation with which we are at war wherever resident or doing business as the President may by proclamation include within the term "enemy."

Section 2 also defines the term "ally of enemy." This definition follows in substance the terms used in defining the term "enemy" with such changes as make the terms applicable to an "ally" of enemy.

Section 2 also defines the word "trade" as covering every sort of commercial transaction that may be carried on between persons or nations. This definition is minute in its details and is found in paragraphs (a), (b), (c), (d), and (e), on pages 4 and 5.

Section 3 forbids trading with an enemy or an ally of an enemy, and makes such trade unlawful except under a license issued by the

Secretary of Commerce. By this section the forbidden intercourse or commerce also extends to the transportation of an enemy or ally of an enemy, and also to the transmission, or attempted transmission, out of the United States of any letter, document, writing, message, picture, diagram, map, device, or other form of communication addressed to an enemy or the ally of an enemy. The necessity of this particular prohibition is too obvious to require explanation.

As my colleague from Pennsylvania [Mr. Dewalt] just said, this is no new provision as to issuing a license under which trade may be had. In the case to which the committee's attention has been called the Lane case, decided by the Supreme Court of the United States you will find there is a review of all the acts of this kind that were in effect during the Civil War and an exposition of the law regarding them. And so it is an application of an old principle that was in effect during the Civil War—this providing for a license for trading with the enemy.

Mr. McKEOWN. Is there any provision in this bill that will cover a case like this: Suppose horses in Oklahoma have been sold to Austrian agents or German agents, to be delivered in New York, and a contract made and an agreement made before the declaration of war and the horses are delivered in New York after the declaration of war, but have not been delivered to the enemy, in that case what provision is there, if any, to take care of the owners or the men who have sold this property?

Mr. SNOOK. I am afraid there is no provision in the bill to take care of such a thing as that, and I do not know that there ought to be a provision of that kind, because I really think we ought not to send horses or property of that kind to the enemy to help them in this war in which we are engaged against them. I do not see how you can make a provision of that kind. It is one of the risks of war that they will have to assume.

Mr. McKEOWN. Then, those people in Oklahoma in that case will have no redress in the courts under this bill?

Mr. SNOOK. I think not. Under section 5 of the bill the President may suspend the act so far as it applies to an ally of the enemy. This is a provision that the department thought to be wise, because at sometime it might be necessary in the course of trading for the President to suspend it.

This provision further provides that licenses may be granted under the direction of the President to any person if he be of opinion that such license is advisable. This is the provision of the bill that allows the President to grant licenses to alien citizens who may be residents of the United States, so that that matter may be taken care of if he thinks that some person is transgressing the law or is pursuing some kind of trade to the detriment of this country.

As to the provisions of section 6, I only want to say this: It seems to be the opinion of some Members of the House that this bill provides for the confiscation of the property that is to be turned into the hands of this custodian. On the other hand. It is the opinion of the committee and of the people who framed this bill that that will not be the result if this bill is enacted into law. Indeed, it is the opinion of the committee and of the people who framed the law that it will take care

of that property, so that it will be in readiness to be disposed of at the end of the war according to an act of Congress.

Mr. STAFFORD. Mr. Chairman, will be gentleman yield?

Mr. SNOOK. Yes.

Mr. STAFFORD. What provision is there in the bill that at the close of the war the property of those enemy foreigners who have seen fit to allow their property to be invested in this country is to be returned to them?

Mr. SNOOK. The provision in the bill is that that is to be disposed of in the discretion of Congress.

Mr. STAFFORD. Well, if Congress does not act, then their property is withheld from them and confiscated by the Government.

Mr. SNOOK. Does the gentleman think that Congress will assume that position? Has the gentleman so little confidence in the Congress of the United States as to think it will not act fairly and justly with those men?

Mr. STAFFORD. Oh, it is not a question of acting fairly, but a question of Congress not acting expeditiously—a question of how long the property of these foreigners will be withheld.

Mr. SNOOK. The thing is not one-sided, the gentleman should know. There will be so many things to adjust when this war is over. The enemy will have property of our citizens. There will be claims for indemnity, and the German Government will undoubtedly have property belonging to our citizens. And it seemed wise to the committee, although it may not seem wise to the gentleman, that this property should be left in the position it is in, so that when all these questions are taken up they can be adjusted equitably.

Mr. STAFFORD. The gentleman is confusing in the statement he has made the rights of the belligerent government with the rights of individual subjects. It is not sought by this bill to appropriate the property of foreigners who are domiciled in this country. That remains in the hands of those aliens who are domiciled here, but you are attempting to take the property of foreigners resident abroad who have seen fit to leave their property for investment perhaps with a corporation or some individual, or turn it over to the Government without any right whatever, so far as the provisions of the bill are concerned, to require the Government to turn it over to them after the end of the war.

Mr. SNOOK. This property is taken and placed in the hands of the custodian under the powers of Congress. Congress passes the law under which it is done, and I do not see why Congress could not be trusted to pass a law governing the matter when the war is over; why it should not be trusted to adjust this matter and see to it that the property is returned to the owner. I am sure there is no disposition on the part of the Congress to confiscate any property.

Mr. STAFFORD. Does the gentleman know of any treaty at the close of any war where the conditions have been to take the property of subjects resident abroad and adjust those claims? They are always exempt. It is only the property of the government itself that is taken into consideration.

Mr. SNOOK. I would remind the gentleman of this fact, that when the war is over Germany may have enacted a law similar to this, under

which the property of our citizens will be held in Germany. Does the gentleman think that, without regard to the way they have treated our citizens, we should turn this property over to them?

Mr. STAFFORD. While the Government has the right to take the property of an alien living in its jurisdiction, no government has in recent times gone to that extent, and all authorities on international law recognize the fact that individual property should not be taken during a state of belligerency.

Mr. SNOOK. I understand that; but this proposition is not only—as the gentleman will see if he examines it closely—for the benefit of our Government, but is also for the benefit of the foreigners who own this property, because in all cases the property will not be, as the gentleman from Connecticut [Mr. Hill] pointed out, held by corporations which are as solvent as the Pennsylvania Railroad. This property, if it must be kept in the hands of the debtors, may be lost; but if it is put into the hands of the United States it will be saved.

Mr. STAFFORD. If the gentleman will permit right there, I have in mind a case where an alien enemy, formerly a governess in the home of a constituent of mine, left property in this country in his hands to take care of. She exercised her judgment as to who should be her debtor. Now, you enact this bill and take away her right of recovery—of suing her agent or trustee for her property.

Mr. SNOOK. Well, that is the gentleman's view of the matter.

Mr. STAFFORD. That is the bill itself.

Mr. SNOOK. I think the property would be just as much safeguarded and all rights as well protected if it is left to Congress to dispose of after the war as it would be to give the party a right to bring a suit in the Court of Claims.

Mr. GORDON. Will the gentleman yield?

Mr. SNOOK. Yes.

Mr. GORDON. If the custodian of the money of this government that the gentleman speaks about were to send it to her, and when it got across the sea it were to get into the hands of one of the Governments at war with Germany, they would take it and keep it?

Mr. SNOOK. Yes.

Mr. GORDON. And use it against Germany?

Mr. SNOOK. Certainly. Alien enemies have no legal rights that a belligerent is bound to respect, as a matter of law.

Mr. STAFFORD. But this Government does recognize them.

Mr. GORDON. We are recognizing them in this country by providing in this act for a trustee to hold the property until the close of the war.

Mr. SNOOK. I see that my time is running.

By section 4 an enemy and an ally of an enemy is forbidden to assume and use any other name than that by which it was known at the beginning of the war, except under license issued by the Secretary of Commerce.

Under section 5 the President may suspend the act so far as it applies to an ally of an enemy and licenses may be granted under the direction of the President to any person if he shall be of opinion that such grant shall be compatible with the successful prosecution of the war.

Section 6 provides for the appointment of a Government agent to be known as the alien-property custodian, and all money and property in the United States due or belonging to an enemy or an ally of enemy is to be delivered to this custodian to be held by him and accounted for under the terms of the act.

Such clerks and employees as may be necessary to carry out the law shall be appointed through the Civil Service Commission, and the Secretary of Commerce is empowered to accept voluntary services. In this connection it has been stated that it will require an additional force of 1,000 employees to administer the law.

In the hearings, on page 30, Secretary Redfield assures us that this report is entirely unfounded, and that it will not require one-tenth of this number; on pages 17 to 19 of the hearings the Secretary minutely describes the nature of the work that this bureau will have to do and estimates the number of clerks that will be required to perform these duties at 45; he then makes the statement, to be found on page 19, that he is of the opinion that he will be able to secure volunteers to do quite a large part of this work without compensation.

Section 7(a) provides for the disclosure of all property of an enemy or of an ally of enemy situate within the United States and of all debts due an enemy or an ally of enemy through reports which must be made to the custodian.

Section 7(b) declares that any conveyance or transfer of the property of an enemy or ally of enemy after the beginning of the war with knowledge that it was such property shall be void. This section also contains the exception to which I have heretofore referred to concerning payment to an agent.

Section 7(c) provides that if the Secretary shall so require any money or other property of an enemy or ally of enemy or which is owing to or belongs to an enemy or ally of enemy shall be conveyed, assigned, delivered or paid to the custodian, and that any person not an enemy or ally of enemy who owes to such persons any money may, at his option, pay the same to the custodian, and that such delivery of such money or property to the custodian shall be a full discharge of the obligation to the extent of such payment or delivery, and the custodian is empowered to issue receipt for the same, which shall be evidence of such delivery or payment.

Section 8 provides a method of disposing of property belonging to an enemy or an ally of an enemy where it is encumbered by mortgage or other lien.

Section 9 provides a method whereby any person not an enemy or an ally of enemy, claiming an interest in money or property which has come into the hands of the custodian or to whom a debt may be owing from an enemy or an ally of enemy, may have such claim adjudicated and adjusted.

Section 11 provides that all moneys, including checks and drafts payable on demand, received by the custodian shall be deposited in the Treasury of the United States and invested in United States bonds; this section also provides for the keeping and safeguarding of all property coming under the control of the custodian. It contains the further important provision that the final disposition of the property coming under the control of the custodian belonging to an enemy or to

an ally of enemy shall be disposed of at the conclusion of the war at the discretion of Congress.

1. Sections 12 and 13, pages 20 and 21, relate to the regulation of clearance of vessels bound for foreign ports, in order that there may be full control of both vessels and cargoes, domestic as well as foreign.

2. An appropriation of a sum not to exceed \$250,000 is contained in the act to be used in the discretion of the Secretary of Commerce for the administration of the provisions of the act during the fiscal year ending June 30, 1918, and for the payment of salaries of all persons employed under the act, together with the necessary expenses for transportation, subsistence, rentals in the District of Columbia, books, periodicals, stationery, miscellaneous supplies, printing, and other necessary expenses.

Section 15, page 22, provides punishment and penalty for the violation of the act. And section 16, pages 22 and 23, confers jurisdiction upon the district courts of the United States to issue such process as may be necessary to enforce the provisions of the act, with the right of appeal as provided in sections 128 and 238 of the act of March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary." Jurisdiction of offenses against the act committed in the Philippine Islands and the Canal Zone is given to the several courts of the first instance in the Philippine Islands and the district court of the Canal Zone, and concurrent jurisdiction for like offenses is conferred upon the district courts of the United States for offenses against the act committed upon the high seas.

The analysis I have made of the act under consideration will show that its purpose is to define what trade may be carried on and what trade is forbidden. The object of its framers was to provide authority to protect our country against any aid being given to the enemy by our citizens or any other persons, and yet to cause as little interruption as possible of our commerce. To accomplish this the trade forbidden to an enemy or an ally of an enemy in the first instance is not fixed by the nationality of the person with whom the trade is to be carried on but by the domicile or the residence of that person.

The intention is to make it impossible to aid our enemy by forbidding that money or property of any kind held in this country should reach the hands of the enemy.

Secretary Lansing, who was one of the persons responsible for this bill, in the hearings before the committee put the matter in this way:

You will observe, in the definition of the word "enemy," that an enemy is a person, corporate or otherwise, who resides in the territory of an enemy or an ally of an enemy, or in territory occupied by their armed forces, or in neutral countries and doing business in such territory, on an official or agent of the Government of the enemy or his ally. By proclamation the President may extend this definition to include natives, citizens, or subjects of the enemy or his ally wherever resident, i.e., in neutral countries or even in the United States.

The officers of the Government inform us that there may be some kinds of business transactions between citizens of this country and enemies, allies or enemies, or subjects of such countries which may be carried on with safety to the United States. The bill, therefore, provides for the granting of licenses for the carrying on of such business if such grant shall be compatible with the safety of the United States and with the successful prosecution of the war.

This principle was applied during the Civil War quite successfully. It is believed that it can now be used in many cases with great benefit to the Government. A discussion of this principle as it was applied during the Civil War, together with an analysis of the various acts, rules, and regulations in force at that time, are set forth in the Lane case, to which I have referred.

It will be noted in this connection that trade with aliens who reside in the United States is to be forbidden only by proclamation of the President, and then only "if he shall find that the safety of the United States or the successful prosecution of the war shall so require." The bill is drafted in this way to permit as little interference with our domestic affairs as possible.

While we are passing so many laws for the regulation of our trade and commerce, it is also highly important to keep in mind that we now have in this country the greatest source of credit in the world, and that if we hope to win the war it is necessary to maintain that credit.

War can not be carried on successfully in these times without credit. In the long run credit will probably be the deciding factor in this great struggle. So while regulation in certain cases is absolutely necessary, it is also important that both our domestic and foreign commerce be just as free as it is possible to keep it without impairing our efficiency or giving aid and comfort to our enemy.

The first object of the bill, therefore, is to provide such regulations as will prevent anything from this country reaching the enemy that might prove of value to it in carrying on the war. Another object of the legislation which is worked out through the alien-enemy custodian is to protect the rights and property of enemies and allies of enemies.

It is perfectly apparent that such persons are the owners of valuable property situate in the United States; that they are parties to contracts entered into prior to the beginning of the war which have not yet been carried out, and that there are millions of dollars now due to such persons from Americans and American business concerns; and that there will be, before the close of the war, many more millions due them from dividends on stocks in American business concerns and from interest on American securities.

The law as it now stands prevents the turning over of this property, the carrying out of these contracts, and the payment of such interest and dividends.

It would be neither right nor moral to confiscate the property of these persons because they happen to reside in a country with which we are at war. A study of these facts show that a law like this, providing for the safe-keeping of such property by a custodian, is both just and proper.

The Secretary of Commerce, in the hearings before the committee, stated the case in this way:

The creation of an alien-property custodian is a novelty and is in line with that same effort toward equity which impels us to indicate an earnest desire to show to the people with whom, unfortunately, we are engaged in war that here is the opposite of confiscation and here is the opposite of requisition. A responsible officer of the Government is created who shall receive the property of an enemy and put it in the safest place known to us—that is, in the Treasury of the United States—and invest it in Government bonds, so that the property of the enemy in our country shall be used to support the war, but at the same time to remain safely in the custody of the Treasury, and to remain there until the war

is over. Then this bill does not give to that custodian the final disposition of that property, but it expressly declares that after the war shall have ceased the property thus secured shall be at the disposition of Congress and that it shall be for Congress to say how it shall be handled. It is evident to your, sir, I am sure what a remarkable power the possession of that enemy property thus safeguarded would be to you if you were negotiating terms of peace. I hardly need do more than to suggest the weight that this would give your words, and also as being an act of good faith even toward an enemy.

Then too, you can readily see in what an embarrassing position our own people are placed on account of the rule of law to which I called your attention. Many of our people hold property which belongs to an enemy; many others have entered into contracts before the war with persons who are now our enemies; still others have money which belong to such persons.

Almost daily these persons are asking the Department of Justice for advice; they wish to know what to do. The adoption of this measure will relieve the embarrassing position in which they are placed; all property held by our citizens belonging to an enemy or to an ally of an enemy may be turned over to the custodian and all money in which an enemy or an ally of an enemy has any interest may be paid to the custodian and the holder relieved of further liability, and everyone will be assured that this money and property will be safely held and equitably and justly disposed of.

The necessity for this law, then, grows out of the fact that all this money and property of the enemy held by the people of this country can not, under the present state of the law, be turned over to the foreign enemy in any way and can not be used by the enemy as a basis of credit nor for his benefit.

Therefore unless the law is changed all this money and property must remain in the hands of the present holders, and no one can receive any benefit therefrom except such people as hold it for the owners.

The theory of the bill is that it shall not be allowed to remain in the hands of the debtor or the holder, but that it shall be turned over to the custodian, to be held by him during the war and to be invested in Government securities, thereby helping to finance our Government and to build up its credit.

Thus this feature of the bill provides a means for assisting the Government, but at the same time is just and fair to the enemy.

For if the war is to last very long and a measure of this kind is not passed, the enemy will be bound to take the risk of the solvency of his debtor in America. In times of peace, in the ordinary course of business, the risk of insolvency is quite great. This risk may be increased in times of war. This bill does away with that risk. It absolutely affords a means by which all this property and money will be taken care of and invested in the highest securities, so that when the war is ended the owner may make and prosecute a claim for his property.

At the same time the bill safeguards and protects the rights of the Government, for the whole question as to the final disposition of this property and money, together with the income thereof, is left to the discretion of Congress and is to be settled by appropriate legislation when the war is over.

Heretofore I have not referred to section 10 of the act for the reason that the provisions of this section refer to a subject different from that which we have been discussing. This section is divided into eight para-

graphs, the first of which provides that an enemy or ally of enemy may file and prosecute in the United States an application for a patent, trade-mark, print, label, or copyright in practically the same manner as if we were not at war "provided the nation of which the said applicant is a citizen, subject, or corporation shall extend substantially similar privileges to citizens and corporations of the United States."

Paragraph (b) provides, in substance, that this same action may be taken by a citizen of the United States in an enemy country, but that his application therefor must be first approved by the Secretary of Commerce.

Paragraph (c) provides that any citizen or corporation of the United States may be licensed by the Federal Trade Commission to manufacture or produce any article under patents or copyrights owned or controlled by an enemy or an ally of enemy.

The commission shall prescribe the regulations under which such license shall be exercised and require the licensee to pay a fee not exceeding \$100 and not exceeding 1 per cent of the fund to be deposited by such licensee under the provisions of the act.

Paragraph (d) provides that the licensee must file with the commission a report showing to what extent it has used and enjoyed the license and pay to the commission not to exceed 5 per cent of the gross sum received by it from the sale of articles produced by it, or 5 per cent of the value of such products as established by the commission. These sums are to be paid to the custodian and held by him as a fund for the payment of the owner of the patent or copyright for its use.

Paragraph (e) provides for the term of the license.

Paragraph (f) provides that at any time within one year after the end of the war the owner of such patent or copyright may bring suit for the recovery of compensation for the use of his invention or copyright. The custodian is to be made a party to this suit, and the owner is to be paid insofar as can be done from the fund in his hands arising from the 5 per cent payments provided for in the paragraph.

Paragraph (g) provides for the bringing of suits by an enemy or an ally of an enemy to prevent the infringement of letters patent and copyright.

Many patents and copyrights have been granted by this country to citizens falling within the classes designated in the act as enemies and allies of enemies. It is also true that many of our citizens hold patents and copyrights of great value issued to them by the German Government and by Governments that are allies with Germany in the present war. After much careful thought the scheme contained in this bill is presented as the very best under all the circumstances that can be devised to protect the Government and at the same time to deal justly with aliens and our citizens who hold such patents and copyrights.

Let me call your attention to a letter written by the Commissioner of Patents to the Attorney General in explanation of this provision of the law.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE,
Washington, D.C., May 11, 1917.

HON. ATTORNEY GENERAL,
Washington, D.C.

SIR: The European countries at present at war have (with the exception of Russia and a retaliatory measure by Germany directed against Russia only)

mutually respected the patents and copyrights and trademarks of each other's citizens and subjects and have granted privileges of filing applications and paying fees, annuities, etc., necessary to preserve these rights and have granted liberal extensions for filing and prosecuting applications and paying fees.

It is essential that our citizens be permitted to file applications and pay fees and annuities and receive the benefit of extensions, and these advantages can be gained only by similar concessions upon our part.

Moreover, in the patent acts of many of the foreign countries there are general provisions for the granting of compulsory licenses. These provisions were not found to be of much importance and were in many respects disadvantageous prior to the outbreak of this war, but since the outbreak of the war they have become important in connection with enemy-owned patents.

Our Government may supply its own needs under existing laws either directly or through contractors who are protected against suit or interference, the only remedy to the patentee being recovery through the Court of Claims. But the needs of State governments, municipalities, and private citizens cannot be supplied in this way. It is therefore suggested that our patent statute be amended to provide that whenever a state of war exists the Federal Trade Commission may grant licenses under enemy-owned patents.

I have in a large measure myself drafted and have discussed with Mr. Warren in detail the bill herewith submitted covering the points indicated.

Respectfully,

THOMAS EWING, *Commissioner*.

Some of the articles covered by these patents and copyrights are almost indispensable. During the war some are required by the Government and are of almost daily use.

Since the war has begun the production of these articles has been interrupted, and some have become so scarce that they can hardly be obtained at all. The demand for some of these articles of necessity has become so great that bills have been introduced in Congress to annul the patents under which they have been produced.

The Commissioner of Patents has devised and presented this scheme whereby these articles may be produced under this license system. It will be observed that this scheme is far more simple, and that it can be worked out and the rights of every party interested be amply protected. We are also assured that the scheme will be successful, and that many persons and firms are anxious to take out these licenses and undertake the work of producing these various articles which are protected by foreign patents.

The plan proposed in the bill follows the course taken by all other countries engaged in the war except Russia. It is a broad and liberal one and in my judgment deals fairly and justly with a great subject in which the Government is directly interested. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONTAGUE. Does the gentleman from Ohio desire any further time?

Mr. SNOOK. No; but I thank the gentleman from Virginia for offering it to me.

* * * * *

Mr. ESCH. I yield eight minutes to the gentleman from New York [Mr. La Guardia].

Mr. LA GUARDIA. Mr. Chairman, it is indeed gratifying and restful to find that the regiment of employees to be engaged under this bill are to be appointed in pursuance with the civil-service laws. I do not know whether that indicates that the supply of "faithful and deserving" in certain sections of the country is becoming scarce or whether

it is due to the action of the House accepting the civil-service rule in the food-control bill. However, as a member of the Committee on Reform in the Civil Service, a committee somewhat dormant and inactive. I wish to thank the chairman and members of the Committee on Interstate and Foreign Commerce for relieving me from the necessity of introducing such an amendment to this bill.

The gentleman from Virginia [Mr. Montague] emphasized the fact that the patent provision of this bill was a reciprocal measure; that it was to apply in the event that a similar privilege was extended to citizens of this country having patent rights in Germany. I want to point out that this reciprocal provision refers only to applications for patents or trademarks, and does not apply to the license provision permitting citizens of this country to manufacture an article patented and owned by an alien enemy. I believe, however, that the reciprocal provision should extend to the entire section dealing with patent rights.

Now, the gentleman was unable to state whether the German Government intended or at this time had limited or abrogated patents or patent rights owned by citizens of this country. If the purpose and intent of this bill is only one of reciprocity or retaliation, I suggest that a similar provision should be inserted in this bill to cover the provisions of subsection (c) under section 10. From what I gather from what has been said today and from the testimony before the committee, the only purpose of subsection (c) is to manufacture salvarsan, commonly known as "606." The trouble with that is that if salvarsan could be manufactured in this country there would be no need of any such provision. It is conceded that it is a medicine much needed and demanded by the requirements of public health. If a Philadelphia concern or any other concern in this country were able to manufacture salvarsan they could have done so and there is not a court in the country that would restrain them. The only limitation that any court would impose in connection with an action for infringement would be an order to keep complete and accurate accounts pending the action. That would protect all parties for the duration of the war when the matter could be immediately adjusted.

MR. WATSON of Pennsylvania. Will the gentleman yield?

MR. LA GUARDIA. Yes.

MR. WATSON of Pennsylvania. I will state that Mr. Metz had a contract with Dr. Shoenberg to manufacture at a certain price salvarsan, and therefore it could be made. Mr. Metz has the sole agency for the drug in this country and is the only one who could make a contract.

MR. LA GUARDIA. I am glad the gentleman from Pennsylvania made that statement. I will state now that salvarsan has not been successfully made in this country. It has been tried since 1914. They have tried and experimented, imported an imitation from Canada, yet they cannot obtain the result which careful practitioners say is equal to the original. It does not equal the result of Dr. Ehrlich's product.

What these men want is not the right to manufacture salvarsan, but they want the Government to OK it and let them put on the market a spurious article. The health of the people is concerned here, and that is why we should be very careful before granting to anyone a

license to manufacture an imitation salvarsan of uncertain result and sell it as the original preparation under a Government license. It is misleading. The public will be deceived. Patients will believe that they are being cured with the original "606." Results may be fatal. The gentleman from Pennsylvania [Mr. Watson] states that Mr. Metz had a contract with a manufacturer and that the preparation could be made in this country. I have a letter from Mr. Metz, and he is very frank and honest in his statement. He says this:

Salvarsan has been and is being manufactured in this country by others. If through the competition a better article or a cheaper article can be placed on the market than I can produce I will be taking the ordinary business risk and will have no reason to complain. I feel confident that I can do at least as well, if not better, than anyone else, and believe I am in a more favorable position, owing to past experience with the patented product which I control, and no doubt there are others whose relations to enemy patents are the same as mine.

I will put the whole letter in the record.

This is an honest statement from Mr. Metz, who is the sole agent of the original salvarsan. He does not state that the preparation can be duplicated here. He admits the chances. It is all a matter of experiment, which after nearly three years has not yet been successfully accomplished. If the gentlemen of the committee who must have given serious study and consideration are able to state that anyone in this country has experimented and has reached a stage of making a preparation as good as the original salvarsan, then, of course, there will be no danger. But I repeat that so far they have not been able to do so. They are seeking to market an imitation of doubtful medical value. This is the only patent article mentioned. If it is the only reason for the section, I do not hesitate to say that the section should be stricken out, for two reasons, first, it will not accomplish the purpose as far as salvarsan goes, and, second, citizens of this country have more at stake. You seem to overlook the fact that we have hundreds of patent rights in Germany owned by American citizens. We must protect them as much as a certain few chemical companies. We do not hear that Germany is interfering with their rights. Let us consider that. In all fairness, let us protect the American citizen in his patent rights in Germany and limit the enforcement of this provision to a confiscation or limitation of patent rights owned by American citizens in Germany.

Mr. HILL. One moment. Two months ago, when the tax bill was under consideration, on the proposition of the president of the American Chemical Society, correspondence was had with the leading chemists of the country as to the possibility of manufacturing salvarsan, and replies came back, three out of four or four out of five of which stated that the only thing which stood in the way of the manufacture of salvarsan in this country was the rights under the German patent, and that if they could be abrogated or suspended there would be no trouble in making it just as good as that made in Germany. That correspondence is in the possession of the gentleman from Illinois [Mr. Rainey].

Mr. LA GUARDIA. I do not care what the chemical people say. I will say that no self-respecting, reliable practitioner will make such a bold statement. I am concerned with the health of our own people. The Ehrlich preparation was subjected to 50,000 actual tests before it was placed on the market. The chemical people have the formula; they

have experimented very largely, and yet have not reached the stage of perfection of the original preparation. The medical profession admit it. I repeat if it were possible to make it no one would be asking Congress for permission.

Mr. HILL. I simply call attention to the statements that have been made.

Mr. LA GUARDIA. Yes; and I simply want to call attention to actual conditions. I want to guard against the marketing of any untried or uncertain preparation with the Government's guarantee that it is "just as good" as the original and manufactured with the Government's license. Do not you see how dangerous that would be?

I shall present an amendment, if the committee does not do so, making the provision regulating patents subject to the attitude and action of the German Government toward the rights of our citizens in similar cases.

[The letter referred to is as follows:]

NEW YORK, July 6, 1917.

HON. F. H. LA GUARDIA,
House of Representatives, Washington, D.C.

My DEAR CONGRESSMAN: I have your favor of July 2 addressed to me in care of the H. A. Mertz Laboratories in Brooklyn.

In reply I beg to say that I shall have salvarsan, made by the original process, on the market within the next few weeks. I will also manufacture other medical preparations covered by German patents in this country.

From my point of view I see no objection to the section in the Adamson "trading-with the enemy" bill which permits the granting of a license for the American manufacture of goods covered by enemy patents. So far as I am concerned, naturally my own personal interests would be best served if such licenses were not granted, but I take a broader view of the situation and feel that we should not be deprived of our ability to obtain necessary products just because their importation is prevented or their manufacture restricted by the foreign patents, provided the interests of the patentees are protected so that after the war they will have the benefit of their patents and receive a fair compensation while the patents are being used by others. It would be eminently unfair to abrogate or cancel the patents. Under the provisions of the Adamson bill we place our interest above those of the foreigner, which, of course, is perfectly proper, but at the same time preserve and safeguard his interests by certain restrictions which protect him for the future after peace has been declared.

Salvarsan has been and is being manufactured in this country by others. Undoubtedly they will apply for licenses, and if so, I shall have to face their competition. I will be manufacturing under license from the patentees, as the patents could not be transferred owing to the impossibility of communicating with Germany without censorship or confiscation on the part of the British during the last two years. If through the competition a better article or a cheaper article can be placed on the market than I can produce, I will be taking the ordinary business risk and will have no reason to complain. I feel confident that I can do at least as well, if not better, than anyone else, and believe I am in a more favorable position owing to past experience with the patented products which I control, and no doubt there are others whose relations to enemy patents are the same as mine. My only suggestion to Judge Adamson was that it might be possible in granting licenses to give preference to American citizens or American corporations who had before the war contractual relations with the patentees, if the Federal Trade Commission can be assured that they would use the licenses to the best interests of the United States during the term of such licenses.

I shall be glad to discuss this matter further whenever you are in the city or will look you up when I am next in Washington.

Yours, very truly,

HERMAN A. METZ,

* * * * *

Mr. ESCH. Mr. Chairman, it is not my purpose to go into an elaborate discussion of the details of this bill. The details have already been

gone over with sufficient fullness, but there are a few features in connection with the bill that have not been adverted to in the course of the discussion, and as to them I wish to call particular attention. The discussion thus far impresses me with the necessity of amending the bill along the lines suggested by my colleague, the gentleman from Wisconsin [Mr. Lenroot], and also with the necessity for some amendments protecting payments in cases of bankruptcy proceedings, and no doubt amendments for these purposes will be offered in due course.

The purpose of the bill is to modify the severity of the law of the courts and of international law in time of war, to mitigate the severities of law in time of war, as was well said by the gentleman from Virginia [Mr. Montague], and to see to it that business in the United States is interfered with as little as possible during the pendency of the present strife. This bill does not seek to affect enemies or allies of enemies resident in the United States, with this qualification—that is the President, in his judgment, believes the safety of the Government or the successful prosecution of the war requires it he may by proclamation cover them into the “enemy” class, and they will then become subject to all the other provisions of the bill relating to enemies. It is the purpose to interfere with business as little as possible. Business and commerce are the basis of our financial strength, and our Nation, as well said by one of the witnesses, has become “the purse of the world.” We have the largest gold reserve in the world, and it is to maintain our gold reserve and increase it and to maintain our business and increase it that we advocate the pending bill. Credits are based upon business, and international relations are indicated by credits, and the purpose of this bill is to make it as difficult as possible to exchange credit between the United States and her enemies: It may be difficult to do this, in view of the fact that credit can now be exchanged by cable or by wireless. Under existing law, under the espionage bill, control over cables and wireless has already been granted.

But ever with censorship of the cables and the wireless it may be possible through wireless stations in Mexico or South America to communicate with stations in Spain or even in Germany itself and thus make transfers of credits to Germany. We believe this bill will greatly prevent such transfers. This war is to be won as much by dollars as it is by men and guns, and for this reason we are trying in this bill to make it impossible for a dollar of trade or business to inure to the advantage of the enemy.

Mr. HULBERT. Will the gentleman yield right there for a brief question?

Mr. ESCH. For a brief question.

Mr. HULBERT. What is intended to be done, so far as this bill is concerned, in relation to a company doing business wholly in this country, not with aliens but wholly in this country, where the stock of the corporation is owned wholly by citizens of the German Empire?

Mr. ESCH. I suppose the gentleman is referring possibly to an insurance company?

Mr. HULBERT. No; I have reference to a commercial company.

Mr. ESCH. Well, there are such. They are aliens and enemies under this bill, because corporations are not given the same rights and privileges as individuals or associations or a body of individuals, and the

reason for it is this: A foreign corporation made up of German stockholders doing business in the United States and doing business wholly with citizens of the United States is nevertheless under the control of Germany, because such corporation is a creature of the laws of Germany. That does not obtain as to the alien enemy resident in the United States. He is not subject to the laws of Germany.

Mr. HULBERT. I think the gentleman misinterprets my question.

Mr. ESCH. Possibly.

Mr. HULBERT. For instance, I know a number of concerns in New York City which, before the war broke out, were acting in this country as purchasing agents for German concerns. Those concerns were organized under the laws of the State of New York. Two-thirds of the incorporators had to be citizens of the State, it is true, but a majority of the stock was owned by German citizens.

After the declaration of war between Germany and England, some of those corporations, in order to continue their existence, suspended that part of their activities where they acted as purchasing agents or for the shipment of materials over there and entered into direct competition here with local concerns, because everybody connected with those companies were American citizens except as to the control of stock. Now, is it the purpose of this bill that those companies shall continue in existence and that their profits will be trusted, or is it the intention under this bill absolutely to suspend its business and shut them off from all trade with the people here?

Mr. ESCH. Are those American corporations?

Mr. HULBERT. They are organized under the laws of the several States.

Mr. ESCH. And incorporated under the laws of the several States?

Mr. HULBERT. Certainly; and the stock is owned by German citizens.

Mr. ESCH. Then they will be permitted to do business in the United States, but the officers of those corporations, the president, the Secretary, and trustees, will be required under this bill to report to the alien-property custodian the name of every German stockholder or bondholder, as the case may be, and when that is listed with the custodian, then the dividends on the stock or the interest on the bonds will be paid to the custodian or to a depository, and put in the Treasury of the United States to be invested by the Secretary of the Treasury in bonds or in certificates of indebtedness. It will not mean that that corporation will cease business. It can apply for a license.

Mr. HULBERT. Now, will the gentleman allow one further question along the same line? What will be the course pursued in relation to a copartnership of German citizenship which is operating in this country through a power of attorney in which the power is vested in an American manager, an American citizen?

Mr. ESCH. The copartners are German?

Mr. HULBERT. Yes, sir.

Mr. ESCH. They are not residents of the United States?

Mr. HULBERT. No.

Mr. ESCH. Then they are aliens and enemies within the purview of this bill.

Mr. HULBERT. Yes.

Mr. MONTAGUE. And of international law.

Mr. HULBERT. Does this bill give any additional right to those men beyond existing international law?

Mr. ESCH. No; I do not think it gives any more right.

Mr. HULBERT. If they try to carry on business, will this bill step in—

Mr. ESCH. They could make their application for a license to continue business, and all assets or profits and so on would have to be accounted for to the alien-property custodian or to some other person designated by the President.

Mr. HILL. If the gentleman will pardon me, I think the committee has struck a great deal bigger problem than they have provided for. There are literally millions of such investments of European countries in this country, not only stocks and bonds of railroads, and so forth, but in corporations and in partnerships, and it seems to me that the honor and good faith of the United States would seem to require that it should be explicitly provided. I have this suggestion to make to the gentleman if he will be kind enough to allow it. If the gentleman will turn to section 11 of the bill, what earthly objection can there be to inserting something of this kind:

That all moneys paid to or received by the alien-property custodian pursuant to this act—

Now, understand I do not object to the purpose of the bill, but I am in favor of it. However, I want to do it squarely, openly, and above board—

shall be deposited forthwith in the Treasury of the United States and held in trust for the original owners.

And at the top of page 21, at the end of the word "Treasury":

To the credit of the individual owners.

Then turn over to page 22, and in line 17 insert, and I will note the words in a minute:

After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the alien-property custodian or deposited in the United States Treasury shall—

And I add the words—

on proof of ownership be paid as Congress shall direct.

Now, what harm is there in that? It would absolutely remove all possibility of a claim or confiscation of private property.

Mr. ESCH. I can not conceive it is a case of confiscation, although the gentleman seems to believe that it is.

Mr. HILL. Let me ask the gentleman this question: How long do you suppose that a corporation such as the gentleman from New York [Mr. Hulbert] has suggested would continue to do business if they knew the entire profits, dividends, and proceeds of any kind or character whatever were to be turned into the United States Treasury in an indistinguishable fund and disposition of them should be left until after the war was over, and after an act of Congress provided for their disposition?

Mr. HULBERT. I would like to say to the gentleman in that connection that there are thousands of people in New York City—American citizens—who are employed by such concerns, and who, if those concerns

were put out of business, would be thrown out of work, and starvation and deprivation would be brought to their front doorstep.

Mr. HILL. Of course. And I want to say to the gentleman that New York City is the second largest German city in the world, next to Berlin, and this is going to raise complications that ought to be carefully considered. I am in favor of doing it, but let us do it so that there will be no mistake about it when the war is over.

Mr. ESCH. I do not want to pass on the amendments of the gentleman from Connecticut, because I have not had opportunity to consider them, for this is the first time I have heard them suggested, but I would be glad to consider them when they appear in the RECORD in the morning.

I wish to conserve these rights, and I wish to see that there is assurance that there will be a payment made at the conclusion of the war.

Mr. HILL. I will say to the gentleman that I have looked in vain through the bill to find any reference whatever to the holder of United States Government bonds in Germany. There is a case where the Government has a right to step in and provide definitely what shall be done, but the other cases to which I referred are cases between individual citizens of the two countries.

Mr. ESCH. This bill by its terms puts bankers, merchants, manufacturers, and all other citizens upon notice. In other words, they will know after it is enacted that they can not deal with an alien enemy without risk or hazard. They will know there is now an official, if this bill becomes a law, to whom they can apply in case of doubt and get authority by means of a license to continue the conduct of their business. In this way this bill will bring relief to commerce, will clarify the atmosphere, and will remove the last vestige of doubt.

There are many in the United States who, knowing that they are indebted to an enemy or an ally of an enemy, and desiring to be relieved from such obligation, can make payment into the hands of this Government official, the custodian, and receive from him the necessary quittance. This quittance will be protanto, based on the amount so paid, and the receipt which will be given by the custodian or by a depositary, or such other person as the President may designate, will be evidence in any court of such payment.

The money or property when turned over to the custodian becomes absolutely safe. In the ordinary course of business the creditor runs the risk of his debtor's malfeasance, of his conversion of the property, of his sudden death or bankruptcy. All these risks the creditor runs in ordinary course of business, but under this bill this money—these obligations—can be paid, evidenced by a proper receipt, and no further risks will be suffered by the creditor because of the death, bankruptcy, malfeasance, or criminal conduct of such debtor. The creditor will feel secure in the knowledge that his money is in the safest place in the world—the Treasury of the United States.

There is a provision in section 2 of the bill to which I wish to call brief attention. It is:

Provided, That nothing in this act shall impair or affect the President's proclamation of April 6, 1917, or any amendment or modification thereof, in relation to the branches of enemy or ally of enemy insurance companies in the United States when such branches are under the management of citizens of the United States and subject to rules and regulations prescribed by the Secretary of Commerce.

There are several very large and powerful German insurance companies that have been doing business in the United States for many years, and they have policies running up into the hundreds of millions upon property in the United States. At the outbreak of the war with Germany many of these policyholders and agents of these companies appealed to the President of the United States for relief and asked that these companies should be permitted to continue to do business within the United States.

The insurance commissioners of the various States of the Union met in conference and resolved upon a set of rules which should be enforced upon the German insurance companies, and the President on the 6th of April issued a proclamation authorizing and permitting these insurance companies to continue to do business under certain safeguards and restrictions. If this were not done it would result in great losses throughout the United States.

In the great Atlanta fire a few weeks ago these companies held risks of over \$100,000. Unless they were permitted to do business, as indicated in this proviso, the policyholders in these insurance companies would be denied their right to claim indemnity against these companies. The committee therefore saw fit to insert this proviso as a portion of section 2.

I wish to call your attention to another provision in section 5, "That the President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this act so far as they apply to an ally of enemy"; not so far as they should apply to an enemy, but "so far as they apply to an ally of enemy," the thought being that possibly after this bill has been in effect a short time it may be found unnecessary to maintain its provisions against an ally of the enemy, we therefore gave the President the power by proclamation to exempt allies of the enemy from the provisions of the bill.

Mr. Cox. Mr. Chairman, will the gentleman yield?

Mr. Esch. Yes.

Mr. Cox. Would that enable the President to take care of a condition between this country and Austria and Bulgaria and Turkey?

Mr. Esch. Yes. Those are allies of the enemy, and I think there might be at the bottom of that proviso something more than is indicated upon the surface. I think it is quite evident that in the diplomacy of the United States in the last six or nine months there has been a desire not to antagonize Austria-Hungary, and in fact an attempt to conciliate her and possibly estrange her from her ally, Germany, is indicated.

It may be that this very power which we seek to give in this provision, to suspend the operation of the bill as to an ally of an enemy, may become a useful instrumentality in affecting the destinies of this war. I have not time—and in fact the matter has been gone over already to quite a large extent—to go into many of the details of this bill, but it seems to me that the one feature that has met with most criticism upon this floor is the one requiring the payment of quick assets into the hands of the custodian or depositories, who are in turn to pay them to the custodian, and he to deposit them in the Treasury to be converted into Government bonds or certificates of indebtedness. It seems to me that this is the most characteristic feature of this legis-

lation. While other nations have created custodians, no nation, so far as I know, has given the custodian this power of taking the money due to the enemy nation and converting it into bonds by means of which war can be continued against such nation. It is a new feature in legislation, and while at first it seemed to me to be rather impracticable, the more I considered it the more I believed it was a very meritorious provision of the bill, and ought to be supported. I cannot understand how there can be confiscations if the debtor corporations in the United States hold a debt due to the alien creditor, and it is not confiscation when the Government takes over the money and converts it into Government bonds to help prosecute the war. It seems to me we are acting wisely and safely when we use this money, which no longer belongs to the debtor of the United States, but convert it into bonds to help finance the war. For this reason I believe we should sustain this provision of the bill, giving the custodian this power, and where the assets are not quick assets—and by quick assets I mean checks and sight drafts—where they are notes and bonds and certificates of stock and time bills of exchange and other forms of security, they can be held in various depositories throughout the United States, where in fact they are now held, and these depositories can be required monthly or semi-annually or annually to report and pay to the custodian here the amount of accrued interest, or the amount of accrued dividends on the stock held in the depository. In this way we shall marshal these funds for a common purpose, to promote the prosecution of the war. [Applause.]

Mr. DEWALT. Mr. Chairman, before the gentleman leaves the floor, I would like to have his time extended, because he has been interrupted several times. I do not think the gentleman referred to the provisions of the bill in regard to the transmission of letters, books, and things of that kind.

Mr. ESCH. No; I had forgotten that. That is a new provision. I am glad the gentleman from Pennsylvania called my attention to it. It gave considerable concern to the committee during the progress of the bill through the committee.

Mr. DEWALT. It is on page 6.

Mr. ESCH. Yes; it makes it unlawful—

to transmit or take, or attempt to transmit or take, out of the United States, in any manner, any letter, document, writing, message, picture, diagram, map, or other device or form of communication addressed to or intended to be delivered or communicated to any ally of enemy, with knowledge or reasonable cause to believe that the intended recipient is an ally of enemy.

As the bill first came to us from the committee which drafted it, it practically was confined to letters, documents, writings, or messages. The committee, after due deliberation, added "picture, diagram, map, or other device," and broadened the language, because much valuable information might be conveyed to the enemy through a picture, diagram, or map.

My impression is that we might still further broaden that language by incorporating the words "phonographic record"; for a phonographic record in these days is one of the most important and practical means of communication.

Mr. WALSH. Will the gentleman yield?

Mr. ESCH. Yes.

Mr. WALSH. Is not what is sought to be prohibited there covered in the espionage bill?

Mr. ESCH. Not fully. We asked the Secretary of State and the Secretary of Commerce with reference to that, and a discussion arose as to whether we were not duplicating the features of the espionage bill. We considered that this was not really a duplication and even if the provisions were cumulative they would do no harm.

Mr. LA GUARDIA. Will the gentleman yield?

Mr. ESCH. Yes.

Mr. LA GUARDIA. Is this intended to cover personal correspondence between persons in this country and residents of Austria-Hungary and Bulgaria?

Mr. ESCH. It means any letter taken or attempted to be taken out of the United States.

Mr. LA GUARDIA. Does not the gentleman regard that as rather extreme, with our censorship and control over letters? I am referring solely to personal letters.

Mr. ESCH. Yes; I know. There was correspondence presented to the committee by an organization in the city of New York, asking that the bill be so amended as to permit the sending out and receipt of what were designated as family or domestic letters—that is, letters between members of a family; but the committee did not deem it wise to open the bill to such enlargement. And while I can realize how gratifying it would be to members of a family resident in the United States to receive communications from their relatives resident in the enemy countries and vice versa, still I am afraid that if you open the door through the private letter, even though it be of domestic concern, it may be possible at a time of danger to communicate information of great value to the enemy. In illustration of that let me say that during the cutting-in process at the Sayville and Tuckerton wireless stations here a year ago the cutting-in station found that a certain message was being repeated in varied form for some days at a time. The message was even pathetic, stating in substance that little Emily died on such and such a day and was buried in such a part of the cemetery. On its face a message of that kind would have no ulterior significance whatsoever. Yet because the statement of the death of little Emily was repeated it gave in the end a clue through which the key to the message was discovered; and a similar experience has occurred in reference to one of the other wireless stations of the United States. Therefore how easy it might be in a domestic letter to convey some such simple, pathetic domestic message, which might have lying behind it and beneath it information of the very gravest importance.

While I sympathize most sincerely—because I myself have relatives in this very situation—with those who seek to get news from friends and relatives in enemy countries, still as a safeguard we should prohibit the taking out of the United States of any letter, even though it be a domestic letter, addressed to an enemy country. [Applause.]

Mr. SNOOK. Calling the gentleman's attention to the latter part of section 5, which provides for the issuance of licenses by the Secretary of Commerce under the direction of the President, and to which he has referred in connection with the question of the gentleman from New York [Mr. Hulbert], would it not be possible under this provision of the section if the President or the Secretary of Commerce should find that a partnership or an individual of this kind was doing a

business which was not in contravention with the interests of the United States, or against the successful prosecution of the war, to license such a firm or person to carry on that business?

Mr. ESCH. I rather think that that might meet the situation and take care of the partnership business that he had reference to.

Mr. SNOOK. So wherever there was a partnership or firm pursuing a legitimate business, and the money was not reaching the enemy, they could be licensed.

Mr. ESCH. Yes.

There is one other feature of the bill that has not been adverted to, and to which I wish to call attention. That is subsection (c) on page 5, being the part of section 3 making it unlawful to transport or attempt to transport an enemy with knowledge or reasonable cause to believe that the person transported or attempted to be transported is an enemy. This does not merely include transportation of an enemy from the United States to the enemy country or to an ally of the enemy, or to any other foreign country, but it is broad enough to cover transportation within the limits of the United States; for it is possible to conceive how the transportation of a person from New York to El Paso, Tex., might be of aid to the enemy, that person carrying messages and documents to some central station in Mexico, where they might be transmitted by wireless to a station in Spain or elsewhere.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. ESCH. Yes.

Mr. STAFFORD. Do I understand the gentleman's interpretation of that provision to be that it would prevent or prohibit the transportation in this country of any alien enemy domiciled in this country?

Mr. ESCH. It is broad enough to do that. It says—

transport or attempt to transport an enemy.

Mr. STAFFORD. Ah, but the word "enemy" has been previously defined by subsections (a) and (b) of section 2.

Mr. ESCH. Yes.

Mr. STAFFORD. And those subsections do not include an enemy domiciled in this country—

Mr. ESCH. That is true.

Mr. STAFFORD. Unless the President under subsection (c) should include other individuals.

Mr. ESCH. That is true, unless he includes them in the definition of enemy. It would not prohibit alien enemies resident in this country from being transported unless and until they were classed as enemies by proclamation of the President.

Mr. STAFFORD. So it would not prohibit the transportation of an alien enemy living in this country unless he had been designated as such under subdivision (c).

Mr. ESCH. That is true.

Mr. ELSTON. Will the gentleman yield?

Mr. ESCH. I will.

Mr. ELSTON. In regard to the powers of the custodian, would it reach so far as to permit the executor or administrator to turn over to the custodian undistributed interest in personal property of an enemy heir and get thereby from the custodian his discharge from the court?

Mr. ESCH. I do not know whether it would operate as a discharge

from the court, but I rather think he would have to report to the custodian.

Mr. ELSTON. That is a situation that would occur in almost any lawyer's office. The transfer of legal title to real property would have to go to the custodian, and he might have to pay taxes and retransfer it at the end of the war to the German heir. Has the committee considered all these possibilities in regard to the obligations of an executor of enemy heirs?

Mr. ESCH. I do not know as to the members of the committee giving so much study to all the features of the bill and its ramifications, but the war committee of the Cabinet, assisted by Mr. Warren, Assistant Attorney General, and Mr. Woolsey, of the State Department, and Mr. Pratt of the Bureau of Foreign and Domestic Commerce, all gave very full consideration to the bill, and received hundreds of communications from all parts of the United States on almost every conceivable phase of the situation.

Mr. ELSTON. Another case would be where a mortgage debt is due to an alien enemy residing outside, where the money would be paid to the custodian and the question would be whether a release of that mortgage could be made by the custodian and thereby clear the property.

* * * * *

Mr. FESS. Mr. Chairman, since the war broke out in Europe there have been many enemy trading acts passed by European countries, and especially by Great Britain, some of them by orders in council and others by act of Parliament. Those passed by orders in council, such as were published, I have printed in the Record from time to time and afterwards included them in the diplomatic notes which I compiled, and which was printed by order of the House in last Congress as Document No. 2111. The orders in council touching trading with the enemy were printed in the second volume of the document on restraints of trade, and can be readily found by consulting the index. I need not reprint, them here. I now rise simply to ask unanimous consent that I may print in the Record to-night the acts of Parliament, including the Colonial Parliament of Canada, on the question of enemy-trade acts. These acts were not included in the document referred to. There are four of them by the British Parliament. Those referring to Canadian legislation were put in force by the Governor General in council under the authority of the war-measures act of 1914. This will not occupy many pages of the Record and it will complete that particular part of this trade relation and I thought it might be very well to have it in the Record to-night to readily discern what Great Britain did on enemy-trading legislation at least as a matter of comparison while we were considering this bill tomorrow. The matter I propose to insert is correct and was prepared by the Legislative Reference Division under the direction of J. David Thompson, the law librarian.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to extend his remarks by printing in the Record certain acts of the British Parliament, and the Colonial Parliament, to which he referred. Is there objection? [After a pause.] The Chair hears none.

The matter referred to is as follows:

* * * * *

Mr. MONTAGUE. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 4960) to define, regulate, and punish trading with the enemy, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 4960, with Mr. Byrns of Tennessee in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H.R. 4960, which the Clerk will report by title.

The Clerk read as follows:

A bill (H.R. 4960) to define, regulate, and punish trading with the enemy, and for other purposes.

Mr. MONTAGUE. Mr. Chairman, general debate is exhausted.

The CHAIRMAN. The Clerk will read the bill for amendment.

[Mr. Adamson rose.]

The CHAIRMAN. Does the gentleman from Georgia desire that the bill be read?

Mr. ADAMSON. No; the substitute.

The CHAIRMAN. Without objection, the Clerk will read the substitute to the bill.

Mr. MANN. What is the request?

The CHAIRMAN. That the substitute be read.

Mr. ADAMSON. With all the privileges of an original bill.

Mr. MANN. Of course the substitute has not yet been offered, but let the gentleman ask that it be considered that the substitute has been offered.

Mr. MONTAGUE. I understood that was done yesterday.

Mr. MANN. It has not been offered.

Mr. ADAMSON. It is offered, Mr. Chairman.

Mr. MONTAGUE. Mr. Chairman, I offer it and ask that it be considered as read.

Mr. MANN. Let the gentleman ask that it be considered as offered and then read as an original bill. That is all right.

Mr. MONTAGUE. Mr. Chairman, I ask that the substitute be considered as offered and then read as an original bill.

The CHAIRMAN. The gentleman from Virginia offers the substitute and asks that it be considered as an original bill.

Mr. MANN. He asks that it be considered as offered, and then read under the five-minute rule.

Mr. ADAMSON. The reading of the bill the first time was dispensed with yesterday.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the committee amendment, which he sends to the Clerk's desk, be considered as offered, and that it be read for amendment under the five-minute rule as an original bill. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read the substitute for amendment.

The Clerk read as follows:

SEC. 2. That the word "enemy," as used herein, shall be deemed to mean

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory: *Provided*, That nothing in this act shall impair or affect the President's proclamation of April 6, 1917, or any amendment or modification thereof, in relation to the branches of enemy or ally of enemy insurance companies in the United States, when such branches are under the management of citizens of the United States, and subject to rules and regulations prescribed by the Secretary of Commerce.

(b) The government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy."

The words "ally of enemy" as used herein shall be deemed to mean—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation which is an ally of a nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of such ally nation or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation which is an ally of a nation with which the United States is at war, or any political or municipal subdivision of such ally nation, or any officer, official, agent, or agency thereof.

(c) Such other individuals or body of individuals, as may be natives, citizens, or subjects of any nation which is an ally of a nation with which the United States is at war, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "ally of enemy."

The word "person," as used herein, shall be deemed to mean an individual, partnership, association, company, or other unincorporated body of individuals, or corporation.

The words "United States," as used herein shall be deemed to mean all land and water, continental or insular, in any way within the jurisdiction of the United States or occupied by the military or naval forces thereof.

The words "the beginning of the war," as used herein, shall be deemed to mean midnight ending the day on which Congress has declared or shall declare war or the existence of a state of war.

The words "end of the war," as used herein, shall be deemed to mean the date of exchange of ratifications of the treaty of peace, unless the President shall, by proclamation, declare a prior date, in which case the date so proclaimed shall be deemed to be the "end of the war" within the meaning of this act.

The words "to trade," as used herein, shall be deemed to mean—

(a) Pay, satisfy, compromise, or give security for the payment or satisfaction of any debt or obligation.

(b) Draw, accept, pay, present for acceptance or payment, or indorse any negotiable instrument or chose in action.

(c) Enter into carry on, complete, or perform any contract, agreement, or obligation.

(d) Buy or sell, trade in, deal with, exchange, transmit, transfer, assign, or otherwise dispose of, or receive any form of property.

(e) To have any form of business or commercial communication or intercourse with.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Pennsylvania moves to strike out the last word.

Mr. MOORE of Pennsylvania. I wish to draw the attention of the gentleman from Virginia to line 21, on page 3, the paragraph beginning "The words 'the beginning of the war,' as used herein," and so forth.

Mr. MONTAGUE. The gentleman should look at the other print of the bill.

Mr. MOORE of Pennsylvania. Yes. At the top of page 26 of the new bill.

Mr. MONTAGUE. Yes.

Mr. MOORE of Pennsylvania. The paragraph reads:

The words "the beginning of the war," as used herein, shall be deemed to mean midnight ending the day on which Congress has declared or shall declare war or the existence of a state of war.

I take it that this bill, like other war bills that have been passed by this Congress, is a bill making law for the emergency that now exists. Is not that the fact?

Mr. MONTAGUE. Emergencies growing out of the war.

Mr. MOORE of Pennsylvania. And it is intended to cover the existing European war?

Mr. MONTAGUE. I think the gentleman generally states it correctly.

Mr. MOORE of Pennsylvania. Why, then, on line 5, use the words "or shall declare war," looking to future wars?

Mr. MONTAGUE. This is a general act, I will say to the gentleman. While it meets the present emergencies, it was thought best that those words should be inserted; they might be very necessary hereafter without the enactment of further legislation.

Mr. MOORE of Pennsylvania. Then this bill is not to be put in the same category with other war bills that have been passed. It is not an emergency measure for the present European war?

Mr. MONTAGUE. I think that the bill is intended to meet the emergencies growing out of the present world-wide conflict; but inasmuch as we have this bill upon this particular subject, there is no reason why there should not appear in it a general statement meeting similar conditions hereafter arising.

Mr. MOORE of Pennsylvania. Let us see if we understand the situation. Up to the present time we have simply declared the existence of a state of war with the Imperial Government of Germany.

Mr. MONTAGUE. That is true.

Mr. MOORE of Pennsylvania. And this bill, so far as trading with the enemy is concerned, is intended to apply only——

Mr. MONTAGUE. Only to Germany.

Mr. MOORE of Pennsylvania. Only to the enemy in Germany or to allies of the enemy in Germany?

Mr. MONTAGUE. Yes. But suppose war should be declared with some other power within two or three weeks. Why not have a law to fit that case rather than to come back here and go over all this again?

Mr. MOORE of Pennsylvania. Is that the purpose of the language used in this paragraph?

Mr. MONTAGUE. So far as respects this particular thing, that is the purpose.

Mr. MOORE of Pennsylvania. Then the gentleman wants to be prepared against the possibility of some other declaration of war, apart from that as to the state of war now existing with Germany?

Mr. MONTAGUE. I am not exuberant in my anticipations of other troubles, but I am not shutting my eyes to them.

Mr. MOORE of Pennsylvania. What I want to know is whether the gentleman is preparing permanent legislation, or whether this bill is intended only to meet the existing emergency?

Mr. MONTAGUE. The bill as a whole is intended to meet the existing emergency. The paragraph to which the gentleman has animadverted goes beyond that, as the gentleman has stated. War may produce other complications. We do not know. Other similar emergencies may arise. Other wars may grow out of this war: and therefore it is best to make one bite of a cherry.

Mr. MOORE of Pennsylvania. I think we have not taken this anticipatory step in any other war bill; this evidently is intended to be permanent legislation, and to cover any situation that may arise—any war that may be declared hereafter.

Mr. MONTAGUE. I think the gentleman's construction is in the main a correct one.

Mr. MOORE of Pennsylvania. I think it is clear that the committee intends to make permanent legislation.

Mr. MONTAGUE. With respect to this particular matter, it does.

Mr. FESS. Will the gentleman yield?

Mr. MONTAGUE. I yield to the gentleman from Ohio.

Mr. FESS. A succeeding paragraph of this bill says:

The words "the beginning of the war," as used herein, shall be deemed to mean midnight ending the day on which Congress has declared or shall declare war or the existence of a state of war.

Now, Congress passed a joint resolution declaring a state of war to exist. Is the time determined by the passage of that joint resolution or by the time when the President signed it?

Mr. MOORE of Pennsylvania. I can answer the question of the gentleman only by saying that the language of this bill, so far as trading with the enemy is concerned, puts it in effect as of midnight on the day Congress "has declared or shall declare war."

Mr. FESS. Is it the midnight after Congress acted or midnight after the President signed the joint resolution?

Mr. MOORE of Pennsylvania. I leave the gentleman from Virginia [Mr. Montague] to reply, but the language is plain to me. It means that so far as trading with the enemy is concerned the state of war begins as of midnight—

Mr. FESS. Of which day?

Mr. MOORE of Pennsylvania. The day on which Congress "has declared or shall declare war."

Mr. MANN. So far as the passage of bills and joint resolutions is concerned the President is a part of the Congress, and when Congress passes an act the date that it passes it is when the President signs it; or, if he vetoes it, when it is passed over his veto. That is always the construction of it.

Mr. FESS. Will the gentleman yield to an interruption?

Mr. MANN. Certainly.

Mr. FESS. The only thing that bothered me was that the Constitution says that the declaration of war is a matter for Congress, not the executive department.

Mr. MANN. The Constitution also provides that all joint resolutions passed by Congress shall be submitted to the President for signature and approval or disapproval.

Mr. FESS. Yes.

Mr. MANN. And in that respect the President is a part of Congress in the passage of bills and joint resolutions.

Mr. MONTAGUE. Mr. Chairman, I offer a committee amendment. On page 24, line 8, after the word "any," I move to strike out the word "or" and insert in lieu thereof a comma, and after the word "modification" insert the words "or revocation."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Committee amendment: Page 24, line 8, after the word "amendment," insert a comma, strike out the word "or," and after the word "modification" insert the words "or revocation."

So that the line as amended will read:

The President's proclamation of April 6, 1917, or any amendment, modification, or revocation thereof.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

Mr. MONTAGUE. On page 24, line 12, after the first word "and," I move to insert the following:

Such branches, and the managers and trustees thereof, shall be subject to license by the Secretary of Commerce regulating the business thereof and the control and disposition of the funds thereof.

And after the word "commerce," in line 13 of the same page, I move to strike out the period and insert the words "with the approval of the President."

The CHAIRMAN. Will the gentleman send up his amendment?

Mr. MONTAGUE. I will ask the clerk to read the whole paragraph as amended.

The Clerk read as follows:

Amend the proviso beginning on line 6, page 24, and ending on line 13, page 24, so that it will read as follows:

"Provided, That nothing in this act shall impair or affect the President's proclamation of April 6, 1917, or any amendment, modification, or revocation thereof, in relation to the branches of enemy or ally of enemy insurance companies in the United States, when such branches are under the management of citizens of the United States, and such branches, and the managers and trustees thereof, shall be subject to license by the Secretary of Commerce regulating the business thereof and the control and disposition of the funds thereof, subject to rules and regulations prescribed by the Secretary of Commerce, with the approval of the President.

Mr. STAFFORD. Mr. Chairman, that is rather an important amendment. I assume that the purpose is to throw the protecting arm of the Government around these foreign insurance companies that have been given licenses under the proclamation of the President to continue business as provided generally in this bill, and not to exempt them from the general provisions of this bill?

Mr. MONTAGUE. That is true, and to protect the insurance companies that have licenses to operate in the several States of the Union. The amendment I have offered would probably protect reinsurance. I think the amendment permits a wider range of business activity by insurance

companies, and at the same time gives the Government more regulatory control under the form of license.

Mr. STAFFORD. I assume that under the President's proclamation of April 6, 1917, these foreign insurance companies at the present time are allowed, through their agents, to collect funds and dispose of them in the regular course of business without any report to a governmental agency.

Mr. MONTAGUE. As contained in another provision of the bill, if they are stock companies they will have to report their foreign stockholders.

Mr. STAFFORD. Will the gentleman inform the committee what is the extent of the proclamation of the President of April 6, 1917?

Mr. MONTAGUE. I have not the proclamation at hand, but I will insert it in the Record.

Mr. ESCH. I have it here.

Mr. MONTAGUE. Then I will yield to the gentleman.

Mr. ESCH. Does the gentleman from Wisconsin desire to have it read?

Mr. STAFFORD. No; but will the gentleman give the effect of the proclamation?

Mr. ESCH. It provides:

Provided, however, That all funds of such establishments now in the possession of their managers or agents, or which shall hereafter come into their possession, shall be subject to such rules and regulations concerning the payment and disposition thereof as shall be prescribed by the insurance supervising officials of the State in which the principal office of such establishment in the United States is located, but in no event shall any funds belonging to or held for the benefit of such companies be transmitted outside of the United States, nor be used as the basis for the establishment, directly or indirectly, of any credit within or outside of the United States to or for the benefit or use of the enemy or any of his allies without the permission of this Government.

Mr. STAFFORD. I would like to inquire whether, under the amendment proposed and now offered, it will be obligatory on the insurance companies to turn over these funds to the foreign property custodian of the Government?

Mr. MONTAGUE. It would be obligatory on them to report and disclose; whether or not they shall turn over the funds depends on whether the President directs it or under the rules and regulations made by the Secretary of Commerce in pursuance of the direction of the President.

Mr. STAFFORD. I assume that these companies will no longer be an exception of the rule as provided in the bill.

Mr. MONTAGUE. I will state that this amendment is a distinct and generous concession on the part of our Government to these companies. As far as I am individually concerned, I doubt the wisdom of this proviso at all, before amended or as amended, but if we are to have such a provision as this we do not wish to impair the effect of the President's proclamation, and this proviso as amended seems to cover the entire situation. In that I am supported by a letter from the Secretary of Commerce, which I received this morning, stating that if we have this provision he approves of this amendment.

Mr. STAFFORD. This proposal is at the suggestion of the Secretary of Commerce?

Mr. MONTAGUE. At the suggestion of the insurance commissioners of several States of the Union, especially those of New York and

Illinois, and seconded by the Secretary of Commerce. It was submitted to the Secretary of Commerce.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken, and the amendment was agreed to.

Mr. ROGERS. Mr. Chairman, I move to strike out the last two words. Has the gentleman from Virginia another amendment?

Mr. MONTAGUE. The gentleman from Wisconsin [Mr. Lenroot] has an amendment pertinent to this proviso, and if agreeable to the gentleman from Massachusetts I think it had better be disposed of now.

Mr. PARKER of New Jersey. I have one also.

Mr. LENROOT. Mr. Chairman, I offer the following amendment. The Clerk read as follows:

Page 24, line 2, after the word "territory," insert the words "to the extent of such business"; and on page 24, line 5, insert, after the word "territory," the words "to the extent of such business."

Mr. PARKER of New Jersey. Mr. Chairman. I have an amendment which properly comes before that. It is to line 22, page 23. I desire to offer it first.

Mr. LENROOT. I will yield to the gentleman from New Jersey, although his amendment has no relation to my amendment. Mr. Chairman, I ask leave to withdraw my amendment for the present.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from New Jersey, Mr. Parker.

The Clerk read as follows:

Page 23, line 22, after the word "deemed," insert the words "for the purpose of such trading and of this act"; and on page 24, line 1, strike out the words "resident outside of the United States and."

Mr. PARKER of New Jersey. Mr. Chairman, this is the essence of the bill. This bill has two effects: One is to relieve the rules of international law with reference, we will say, to German citizens living in the United States who mind their own business and do business here and do not try to do business with Germany. Under the old international law they could to a certain extent do business, but they could not collect a debt. They were aliens, foreigners, enemies. We want to say to them that as long as they behave themselves with Americans they are friends, unless the President names them under a subsequent part of the bill and tells them that they will have to be put under special guard. The other side of this bill is just as strong.

Business now is world-wide, and we have come to a war, and we want to stop trading, not only with anyone in Germany, but we also want to say to any business man throughout the world, "You can trade with Germany or with us, but you can not trade with both; if you do business in Germany, we will not do business with you." It is, in effect, the "We do not patronize," which we have heard so much of, which may be a boycott or a blacklist, a thing which must be abolished in time of peace, but in time of war has been found to be absolutely necessary. We do not want to send funds or allow Americans to send funds to firms that have German connections, and who may see that

those funds get into Germany, whether those transactions be conducted in Holland, South America, or in any other neutral country. We are forced to say, as England has said, "We will not do business or allow our subjects to do business with persons who are likely to deal with Germany." Therefore this bill says that the term "enemy" shall include persons outside of the United States who do business in Germany. It is a strong statement.

I have proposed two amendments to that, as you will notice. They are separate amendments, but I think both are necessary. The words "outside the United States and" should be stricken out. A man in this country who is doing business with Germany ought to be boycotted, if you choose to so put it, and put out of business, just as much as a man outside, or more. If a man in this country is doing business with Germany, American citizens should not do business with him, because he comes under the list of those with whom we should not do business just as much as does the man in Holland or in Sweden who is doing business with Germany. American citizens ought not to do business with anyone in or outside of the country who is doing business with Germany. On the other hand, the first amendment that I propose is very necessary. We say rightly that we will not trade with men who trade with Germany, but we ought not to call such a man an enemy. That is a strong term. He is an enemy only for the purposes of such trading and under this act. This is an act to limit trading with the enemy; it says that we will not trade with a man who does business with Germany, and that for the purposes of this act he shall be regarded as an enemy; but it should not say that an honest man who happens to have German connections, if he live abroad in a neutral country, is an enemy and should be defined for all purposes as an enemy.

And I therefore suggest that my first amendment, the definition of the word "enemy," should be limited by the words "for the purposes of such trading and of this act"; and I suggest, in the second place, that there should be no requirement that a man who trades with Germany should live abroad. It is a great deal worse if he lives here. Anyone who does business with Germany should be barred to the trade of the United States in time of war.

This gives me an opportunity to speak of the suggestion made by the gentleman from Wisconsin [Mr. Lenroot], that we should only bar such a man so far as trade with Germany is concerned. That will not meet the question. If we are sending wheat, we will say, to Holland, we do not want to send it to any man who is doing business in Germany. He may or will send the wheat or its proceeds to Germany, and, therefore, we do not want to have the bill restricted to his trade with Germany. That would make it necessary to find out where he is going to send the wheat. The point is to stop shipment of wheat to anyone who is in business with Germany or an ally of Germany, and it ought to be so limited.

Mr. LENROOT. Mr. Chairman, will the gentleman yield?

Mr. PARKER of New Jersey. Certainly.

Mr. LENROOT. It does not require anything in this act to prevent that. That is already provided for in the espionage act and covered by the proclamation of the President.

Mr. PARKER of New Jersey. What is covered?

Mr. LENROOT. The shipment of wheat.

Mr. PARKER of New Jersey. Oh, export trade?

Mr. LENROOT. Yes.

Mr. PARKER of New Jersey. This goes further than the export of wheat. A great many other business transactions might be carried on with honest gentlemen in Holland.

Mr. LENROOT. The gentleman gave that illustration.

Mr. PARKER of New Jersey. Yes; I gave only that illustration, it is true, but we can give a great many other illustrations in which we do not want to furnish funds to anyone who does business with Germany, because those funds indirectly get there. The United States wants to say to the world. "You can deal with Germany or you can deal with us, but you can not deal with both at the same time."

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. PARKER of New Jersey. Mr. Chairman, I ask unanimous consent to proceed for one minute more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. PARKER of New Jersey. Mr. Chairman, I think it very important, first, that the bill should not say that every businessman is an enemy because he does business with Germany, but that it should say only that for the purpose of trading he is regarded as one. Therefore I suggest that the words "for the purposes of such trading and of this act" shall be inserted. It is likewise true that a man in America who does business with Germany is a great deal worse than a man in Holland who does business with Germany, and therefore the words "outside of the United States and" should be stricken out.

Mr. DENISON. Are there any people in this country who are now doing business with Germany?

Mr. PARKER of New Jersey. I do not know.

Mr. DENISON. How can they be doing business with Germany?

Mr. PARKER of New Jersey. How about the insurance companies? There are a great many ways of doing business through South America, through Holland, through Sweden, through the wireless, through the cable, through the wonderful organization of business of this day.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

Mr. MONTAGUE. Mr. Chairman, so far as the first amendment offered by the gentleman from New Jersey [Mr. Parker] is concerned, I do not see that it affects the bill one way or the other, and I am willing to accept it. Now, if I may have the attention of the committee for a moment, the second amendment I fear materially weakens—

Mr. PARKER of New Jersey. If the gentleman will permit, why should not we pass the first amendment and be done with it?

Mr. MONTAGUE. Very well.

Mr. PARKER of New Jersey. Mr. Chairman, I ask that the first amendment be put to a vote; it has been accepted by the chairman of the committee.

The CHAIRMAN. The question is on the first amendment offered by the gentleman from New Jersey.

The question was taken, and the amendment was agreed to.

Mr. MONTAGUE. Mr. Chairman, if I understood this amendment, it is to strike out the first six words of line 1, page 24, "resident outside the United States and." The distinguishing feature of this bill is that residence determines the enemy rather than nationality or nativity. This purpose is intended to be carried out as far as it is practicable, and when a person, no matter where resident, does business within enemy territory he is a resident of that territory, and therefore an enemy.

Mr. PARKER of New Jersey. If the gentleman will permit, suppose he lives in this country and is secretly carrying on business with Germany. That is why I propose to strike out these words.

Mr. MONTAGUE. You reach that case in another way, but this bill contemplates, for illustration, a resident of Mexico having a place of business in Mexico and also in Germany, and you can not reach him simply because he has a place of business in Mexico. He must do business within Germany to constitute the enemy character. The language of the act is "or resident outside the United States and," conjunctively, "and doing business within such territory." I therefore submit to the committee—

Mr. PARKER of New Jersey. Suppose the resident is in the United States and he is doing business in Germany and you can not get hold of him or—

Mr. MONTAGUE. No; there are other laws to reach him.

Mr. PARKER of New Jersey. How would you get him?

Mr. MONTAGUE. As to this particular act, if these words are stricken out you may not reach him at all.

Mr. PARKER of New Jersey. Yes; you do, because by striking them out you hit everybody who does business in Germany, no matter where he lives.

Mr. MONTAGUE. The preceding sentences of the bill would cover a resident within the territory, and by striking out the words contained in the amendment we can not accomplish any material good and may seriously weaken this bill.

Mr. PARKER of New Jersey. If I can make myself plain. I had first, "or resident anywhere and doing business." Would the gentleman rather have it in that form? That is the sense of what I wanted to get, so that anybody who is doing business with Germany would be hit, no matter where they reside.

Mr. MONTAGUE. The gentleman's amendment I do not think accomplishes the purpose.

Mr. PARKER of New Jersey. Suppose we should say, "Residing anywhere or doing business."

Mr. MILLER of Minnesota. Will the gentleman yield?

Mr. MONTAGUE. I will.

Mr. MILLER of Minnesota. Suppose a citizen of the United States resident within the United States should be surreptitiously carrying on business with some one resident within the German Empire. Under the gentleman's proposed amendment there would be an enemy who shall be actually a citizen of the United States resident within the United States—an enemy of the United States. In other words, would not he come in a different category?

Mr. MONTAGUE. Yes; I think so.

Mr. MILLER of Minnesota. Is not that precisely a situation in which an individual would be covered completely?

Mr. MONTAGUE. I think the gentleman's observation is pertinent.

The CHAIRMAN. The question is on the second amendment offered by the gentleman from New Jersey.

The question was taken, and the amendment was rejected.

Mr. LENROOT. Mr. Chairman, I move to strike out the last two words. Yesterday, with reference to the point raised by me as to the violation of international law in section 2, at the suggestion of the gentleman from Virginia. I prepared an amendment that I thought would cover the question, and late last evening submitted to him another in a different form, and this morning he signified that the latter one presented would not be objectionable, but in the last few minutes, upon further reflection, I think this should be modified, and I am going to ask the gentleman from Virginia if he will not ask unanimous consent to pass this over. I am sure we can get together upon it later on.

Mr. MONTAGUE. I will be very glad to concur with the gentleman in that request to pass it over and take it up later. There is no objection.

Mr. LENROOT. I will ask unanimous consent that this paragraph at the top of page 24 be passed for the present, to be returned to later.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that the paragraph at the top of page 24 be passed for the present to be returned to later. Is there objection? [After a pause.] The Chair hears none.

Mr. PARKER of New Jersey. Mr. Chairman, I think the same course should be adopted with reference to paragraph A, on the following page, in the same language.

The CHAIRMAN. The gentleman from New Jersey asked unanimous consent that paragraph A, at the top of page 25, be passed for the present. Is there objection?

Mr. DEWALT. Mr. Chairman, I object. There is a committee amendment to this paragraph, which the gentleman from Virginia desires to offer.

Mr. ROGERS. Mr. Chairman, I move to strike out the last three words.

Mr. MONTAGUE. Will the gentleman yield to me for one moment?

Mr. ROGERS. Yes, indeed.

Mr. MONTAGUE. I would like to offer an amendment to page 24 line 18. After the word "body" insert the words "or class."

The CHAIRMAN. Does the gentleman from Massachusetts [Mr. Rogers] yield for that purpose?

Mr. ROGERS. Yes. Indeed.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Virginia.

The Clerk read as follows:

Page 24, line 18, after the word "body," insert the words "or class."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. MONTAGUE. On the same page, line 23, after the word "proclamation," insert the words "or Executive order."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 24, line 23, after the word "proclamation," insert the words "or Executive order."

Mr. MANN. Mr. Chairman, what is the purpose of that amendment? Are you going to declare somebody an alien enemy of the United States and put them under this bill? Is it not proper to have a public proclamation instead of a secret Executive order?

Mr. MONTAGUE. I am glad the gentleman called my attention to that. That amendment was offered through inadvertence and I desire to withdraw it.

Mr. ESCH. Mr. Chairman, in view of the fact that an amendment has just been adopted inserting the words "or class," ought not those words to be inserted on line 14, page 25, after the word "body"? It will then read, "such other individuals or body or class of individuals."

Mr. MONTAGUE. Yes.

Mr. ESCH. I offer the amendment.

The CHAIRMAN. The gentleman from Wisconsin offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. Esch: Page 25, line 14, after the word "body," insert the words "or class."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment agreed to.

Mr. ROGERS. Mr. Chairman, I desire to call the attention of the committee to the word "natives," in line 19, page 24, and the same word in line 15, on page 25. The effect of the provision in the two paragraphs taken together is that the President may by proclamation and of his volition, with or without adequate cause, declare to be our enemies any United States citizens or groups of citizens merely because they happen to have been born in Germany or in Austria or in any other of the central powers. I should like to learn from the committee some reason for that authorization, which seems a very drastic one, to declare to be enemies of the United States and perhaps ruin men because perhaps 40 or 50 or 60 years ago they were born in a country with which the United States is at war, or an ally of a country with which the United States is at war. There are men in this House—I know of one man, and I think there are several men—who were born in Germany. If this bill should become law in its present form it would permit the President to treat as public enemies Members of this House and several million other men or women who are now in the United States, and who are just as loyal as are any Members of this House. I can not see the reason for treating a naturalized citizen whose country or origin is Germany or Austria or Bulgaria in the drastic way which this bill permits. I should like an explanation from the chairman of the committee.

Mr. MONTAGUE. Acting for the chairman, I would reply to the gentleman by saying that such drastic action will not be taken unless it is necessary for the safety of the United States or for the successful prosecution of the war.

In other words, it is perfectly obvious that a citizen of the United States or a body of citizens will not be embraced within the proclama-

tion unless some act or acts performed on their part gives aid or comfort to the enemy or is of so hostile a character that it threatens the success of the war and the safety of the Nation.

Mr. ROGERS. Now, the gentleman, of course, will agree——

Mr. MONTAGUE. If the gentleman will permit, I submit that is beyond the range of possibility that the present President or any President would embrace in the proclamation the character of citizens in the mind of the gentleman from Massachusetts, for it is only the class of citizens that jeopardize the safety of this country and the success of the war that is referred to. If any body of citizens exercises such hostile conduct, it is a matter of self-preservation of the Government that they be embraced within the proclamation.

Mr. ROGERS. The gentleman recognizes that a naturalized citizen of the United States is practically on a parity with a native-born citizen, with very few exceptions, which are unimportant in this connection. As the gentleman from Minnesota [Mr. Miller] suggested a few moments ago, in discussing the amendment of the gentleman from New Jersey [Mr. Parker], those naturalized citizens of the United States of German origin are in all respects citizens of the United States.

If they do wrong, they can be reached under the general provisions of our Penal Code and of the recently enacted espionage act. There would seem to be no reason for putting them in a different category and classification in this bill simply because, forsooth, 50 or 60 years ago they were born in Germany or Austria-Hungary, or some other one of the central powers.

Mr. MONTAGUE. I would say that the word "natives" here does not necessarily mean the native must be a citizen of the United States of German extraction.

Mr. ROGERS. What is the purpose of using the word "native" in this connection if it is not to include men of German origin who are now citizens of the United States? Why do not the words "citizens or subjects of any nation with which the United States is at war" accurately embrace all whom the bill should properly embrace?

Mr. MONTAGUE. But they are not citizens. They may be of German origin and residing in the United States, but not citizens of the United States.

Mr. ROGERS. Then they would be covered by the other words of the bill—"citizens or subjects"——

Mr. MONTAGUE. Not of the United States, but of a nation with which the United States is at war.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. MANN. Mr. Chairman, as I understand this bill, where anyone is declared an alien enemy you can do no trading with that person. That is a correct interpretation, is it not—where one under the terms of this bill is declared an alien enemy, it is taboo to trade with that person, is it not, under the terms of this bill?

Mr. DEWALT. Except as he has a license.

Mr. MANN. Well, here, to begin with, is a German subject of the United States declared to be an alien enemy. He can not buy groceries, he can not pay a street car fare, he can not deal with anything that is property, he can not go into a restaurant or a hotel.

Mr. DEWALT. Will the gentleman allow an interruption?

Mr. MANN. Certainly. I am trying to get information.

Mr. DEWALT. I think the gentleman misapprehends the scope of the bill.

Mr. MANN. Perhaps. I have only read it; that is all. I may not know what it means.

Mr. DEWALT. The alien enemy, such as the gentleman terms him, is not the party who has residence in the United States.

Mr. MANN. That depends. We are discussing a proposition now that does make the party in the United States an alien enemy. That is the very paragraph now under consideration. It gives the President the power to declare any German citizen living in the United States an alien enemy, and then says if he is an alien enemy you can not pay him any money, you can not trade with him, you can not exchange or transmit any property with him, you can not deal with him for any property, you can not sell him a bill of groceries, you can not sell him a dinner at a hotel.

Now, that goes a good ways. But then here is a proposition that authorizes the President to declare an alien enemy a naturalized American citizen born in Germany, and then undertakes to say that, though he is an American citizen, you can not sell him property, he can not sell his property.

I know we have forgotten that there is a Constitution of the United States, but the departments have gone crazy in reference to these matters. They see a German spy on every housetop and on every street corner, and they are afraid of the spies. They are scared stiff, and no occasion for it. We are in war. We have got to carry on the war remorselessly. But that is no reason why we should all get scared to death at home.

By what authority do we propose to say that some Member of this Congress, born in Germany, naturalized as an American citizen, can not draw his pay from the Sergeant at Arms, can not rent a house, can not live, must die—must starve to death—on the street; he can not even do that in a bed?

Now, the gentleman says that will not be done. Then what is the purpose of putting the provision in authorizing it to be done if you do not intend to do it? Why offend every sense of decency and propriety by stating that we give to the President the power to take away the right of every naturalized citizen of the United States who happens to be born in a country at war with us? I do not think that we ought to say, even as to German citizens in the United States whom it may be desirable to place under some kind of ban, that they can not trade in order to live. It is ridiculousness gone mad.

Mr. ROGERS. Mr. Chairman, I move to strike out the word "natives." in line 19, page. 24.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. Rogers. Page 24, line 19, strike out the word "natives."

Mr. MILLER of Minnesota. That should also include the comma following the word "natives."

Mr. ROGERS. Yes.

Mr. DEWALT. Mr. Chairman, the gentleman from Illinois [Mr. Mann], who is always emphatic and always pungent in his remarks, has been equally emphatic and pungent in regard to this word "natives," in subsection (c), on page 24. The emphasis of his remarks goes so far as to say that any native of a foreign country, although that native might be a naturalized citizen of the United States, would be prohibited by the terms of this act from obtaining either food or shelter or subsistence of any kind if the President of the United States by proclamation should declare that he should be thus deprived.

Now, that is the basic proposition, and I take it as a proposition which is well founded in reason under the emergencies of the case. Why should not a native of a foreign country, although he may be naturalized, be subject to the provisions of this act if he makes himself subject to it by saying or doing anything which militates against the successful prosecution of the war?

Mr. MILLER of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. DEWALT. Yes.

Mr. MILLER of Minnesota. The gentleman evidently contemplates each individual standing on his own feet. That paragraph, however, authorizes the President to name a whole class of citizens—a body of citizens—not one—not Tom, Dick, and Harry, but a whole class together, and make them alien enemies.

Mr. DEWALT. Yes.

Mr. MILLER of Minnesota. Now, let us take Mr. A, who is a native of Germany but a naturalized citizen of the United States. He is as innocent and loyal to the flag as any man that ever lived.

Mr. DEWALT. I grant you that.

Mr. MILLER of Minnesota. Likewise he has ten thousand brothers of the same kind. There may be others. There is nothing here to prevent the President from saying that all that are born in Germany and naturalized citizens of the United States are alien enemies. Now, the gentleman can surely see that that is not proper if it can be avoided.

Mr. DEWALT. I understand that, and I understand it very well.

Mr. MILLER of Minnesota. How is any strength given to the bill, or how is the bill strengthened by including the word "natives" in there?

Mr. DEWALT. If the gentleman permits me for a moment to refer him to the first three words in this subsection, he will see that it contains this clause, "such other individuals."

Mr. MILLER of Minnesota. Just read the next two or three phrases.

Mr. DEWALT. Yes; I understand. I will. The President of the United States might select you, if you please, if you were a native of a foreign country, as an individual, and by special proclamation declare that you should not have any of the rights that otherwise you would have; or he might say that you in connection with others, constituting a body of individuals, should be thus deprived. But you go to the extremity of asserting and declaring that the President by his proclamation would, of his own volition and act, include everybody of a class to which German citizens or Turkish citizens or Austrian citizens might belong. Now, if there be such a class, and if it could be determined by reasonable proof that they were militating against the successful operation of the war, I care not whether they be a class or whether they be individuals, I maintain that they should be subject to these provisions.

And whether they are deprived of food or sustenance, whether, as the gentleman from Illinois [Mr. Mann] says they could not get a bed to sleep in, or whether they could not buy a street car ticket, or buy a meal at a restaurant, any individual who puts himself up against the Government of the United States in this emergency, whether he be born in a foreign country, naturalized here, or whether he be a citizen or subject of that foreign country, he ought to be subject to the provisions of this act.

Mr. GARD. Will the gentleman yield?

Mr. DEWALT. I yield to the gentleman from Ohio.

Mr. GARD. I should like to ask the gentleman to explain to me the meaning of the word "class" that has just been adopted.

Mr. DEWALT. I myself do not know just exactly why the words "or class" were put in, or at whose instigation they were put in. They were offered by Gov. Montague just a few moments ago.

Mr. MILLER of Minnesota. I am sure the gentleman knows as much about the meaning of the word "class" as any Member of the House. I apprehend the real purpose of his inquiry is to draw a conclusion. A class means a class—a group of individuals who come within the denomination of that class. We might say "all Bavarians." We might say "all those who were born in Prussia."

Mr. GARD. What is the practical application of the word "class"?

Mr. MILLER of Minnesota. The practical application is left to the President. He can designate any group of individuals as a class and make them alien enemies. Now, just let me put this inquiry. I know we all want to get this thing straight.

Mr. GARD. Sure.

Mr. MILLER of Minnesota. Turkey is an ally of an enemy of the United States, not an enemy at the present time. Suppose certain Turkish subjects in this country should be guilty of very improper conduct. I can readily see how they might; and suppose the President should issue a proclamation declaring that all citizens of Turkey are hereby declared alien enemies of the United States. That would embrace all Armenians, who have for many, many years looked upon the United States as the one asylum in the world to which they could come and secure freedom from Turkey; and we should be taking those who have thus come to us for help and assistance, and have heretofore received it, and declaring them alien enemies and putting them in the category of those who cannot contract or buy anything, who cannot, as has been said, get a meal of victuals. That would not be fair.

Mr. DEWALT. I suppose, however, that the gentleman will concede this, that the President of the United States is supposed to have some discretionary wisdom.

Mr. MILLER of Minnesota. Why give him the discretion if it is not necessary and if he is not going to use it?

Mr. DEWALT. I hold that it is necessary, because if an emergency arises where any class or body of individuals, or any individuals acting separately and alone, militate against the successful prosecution of the war, this power should be given and these restrictions placed upon them.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. MILLER of Minnesota. I move to strike out the last word, for the purpose of asking the gentleman a further question. Could you not reach the purpose of your bill entirely, after you have described and mentioned individuals, by then adding a provision including individuals who are grouped or associated together for the purpose of doing this, that, or the other thing hostile to the United States, so that the operation of this law shall be confined only to those who as individuals act, or those who associate themselves together with other individuals for the purpose of doing hostile things?

Mr. DEWALT. I see no objection to that at all, provided always the question of the grouping of these individuals and their acting in concert be left for the determination of the President of the United States.

Mr. MILLER of Minnesota. I am perfectly willing to do that. One question further. A man who is a naturalized citizen of the United States is amenable to the laws of the United States in all respects. Now, are not those laws ample to punish or to handle any citizen of the United States who may be so far forgetful of his duties as a citizen as to perform acts that bring him within the scope of this bill? In other words, could you not just as well afford to leave out entirely the word "natives"?

Mr. DEWALT. I do not think so, for this reason: The parties who are foreign born, whether they be from Germany or from any other foreign country, can be divided into these separate classes, namely, those who are residents of this country and who may not be citizens of this country by naturalization, or they may be natives of the foreign country who are naturalized here and therefore no longer citizens of the foreign country. The provision of this section is to include both those classes; and whilst I see the force of the argument of the gentleman from Illinois [Mr. Mann] that it may work hardship in some cases, nevertheless, as he has very well said, we want to fight this war to a finish without doing harm, of course, to any innocent party.

This being an emergency measure and placing in the hands of the President this highly penal power seems to me ought to be restricted, but the restriction ought not in any way to hamper the action of the President.

Mr. MANN. Will the gentleman yield?

Mr. DEWALT. I will.

Mr. MANN. The gentleman would not claim that there is any distinction in the rights between the naturalized American citizen and the native-born American citizen?

Mr. DEWALT. Basically, no.

Mr. MANN. The gentleman by the bill confines the power of the President to shut off trading rights to naturalized American citizens, thereby drawing a distinction in favor of the native-born American citizens. It is not the fact that there are many native-born American citizens who are making much more trouble about the war than are the naturalized American citizens?

Mr. DEWALT. They are subject to the laws of treason.

Mr. MANN. This bill does not attempt to cover them.

Mr. DEWALT. This provision does not apply to the native-born American citizen.

Mr. MANN. That is just what I am saying. It applies to the naturalized citizen. What is the distinction, as far as the constitutional rights are concerned, between the American citizen, native born, and the American citizen, naturalized? I always supposed that they stood on the same footing.

Mr. DEWALT. A naturalized citizen possesses all the rights of the native-born American citizen.

Mr. MANN. Then you have no greater power over the naturalized citizen than you would have over the native-born citizen, and yet we propose by the bill to exercise a power over the naturalized citizen which we do not attempt to exercise over the native-born citizen, drawing a distinction as to the patriotism of the German-born citizen naturalized in the United States and his son born in the United States, and other people born in the United States. Does not the gentleman think it is rather an unwise distinction after all?

Mr. DEWALT. I cannot agree with the gentleman, for the reason that there is always to my mind this subdivision of these foreign-born citizens.

Mr. MANN. And further, if the gentleman will permit, if the native-born citizen of the United States aids the enemy, we have ways of punishing him.

Mr. DEWALT. Yes.

Mr. MANN. And these same methods of punishment apply to the naturalized citizen. If we are safe in relying upon the existing laws to govern the native-born citizen, why are they not equally efficacious to rely upon in the case of the naturalized citizen; why make any distinction in this bill?

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. MILLER of Minnesota. Mr. Chairman, I ask unanimous consent that I may offer this amendment and have it pending.

The CHAIRMAN. There is an amendment already pending.

Mr. MILLER of Minnesota. Then I withdraw my request.

Mr. MONTAGUE. The pending amendment, Mr. Chairman, is the motion of the gentleman from Massachusetts?

The CHAIRMAN. Yes.

Mr. STAFFORD. Mr. Chairman, there is only one purpose sought by the committee in their insistence upon having the word "natives" retained in the bill, and that is to authorize the President of the United States to classify naturalized citizens of German birth as enemies and subject them all to the penalties applicable to enemies, as provided in this bill. There are decisions of the Supreme Court of this country that hold under the liberalized rules of international law that it is not considered inimical to the welfare of the country to allow alien-born citizens of an enemy country domiciled in this country to trade with each other, provided they do not lend any assistance to the enemy, and yet the gentleman from Pennsylvania, backed by other members of the committee, is insistent on giving this drastic power to the President, this absolute power that would be unbecoming even to the Czar of Russia, to allow him to take out and classify those in our country who are naturalized citizens, though as loyal as any native born. We are going indeed afar in this bill, and I am surprised that

anybody will rise on the floor and advocate an autocracy like this no matter who the man to exercise it may be. I am not saying anything against the wisdom or the high devotion of our President, but we should not, with the constitutional privileges guaranteed by the Constitution to citizens, native and naturalized, confer upon him power to single out natives of countries with which we are at war, and who have become naturalized, and classify them as enemies and refuse to permit them to do business or even to exist in this country.

Under public law there are two classes of residents, citizens and subjects. Those who are domiciled here and are not citizens of the United States will be included in the word "subjects." Even those who have taken out first papers under our law of naturalization are still subjects of the foreign government.

This bill is a war measure and sought to be enacted under the war powers of the Constitution. We have authority to exercise powers of sovereignty as a nation over citizenship, whether that citizen is native born or naturalized. If there are in this country—and I question whether there are—naturalized citizens who are disloyal to the country, they can be reached by municipal law, but we ought not to go to the extent, as advocated by the gentleman from Pennsylvania and the committee, of putting the sanction of Congress—because that is what we do—by conferring power on any individual to say that naturalized citizens of this country who happen to be natives of foreign countries living in this country shall have the ban put upon them of being refused the right to trade and be subject to all the other drastic penalties that apply to enemies. The gentleman from Virginia in his prefatory statement yesterday is in conflict with the position he now takes. Yesterday the gentleman stated that it was based on residence in the belligerent country, and now he is seeking to apply it to citizenship and domicile, apparently in contradiction of the position taken yesterday. I think we have not yet come to that pass in this free American country when we should even by appearance vest that power in the President or any other executive authority. [Applause.]

Mr. SEARS. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. SEARS. If the word "natives" includes naturalized American citizens, would it not be class legislation to impose upon them a more drastic law than we impose upon other citizens?

Mr. STAFFORD. Certainly. It is almost unthinkable that we should find any person in this House advocating the retention of that word when the purpose of it has been pointed out by the gentleman from Massachusetts [Mr. Rogers]. The surprising thing to me is that since war was declared not only these naturalized citizens of German extraction but those of German birth who are not even naturalized, but who wish to be naturalized, are standing loyally by the Government. There is no disposition anywhere, so far as I am aware, among those six or eight or ten million persons of German extraction who are in this country not to stand loyally by the country. They have subscribed liberally to the liberty bonds, and they have subscribed to the Red Cross fund, and they are doing everything that the native American citizens would be expected to do, and it ill becomes any Member here to try to justify the sanctioning of such authority as is embodied in this clause.

Mr. ROMJUE. Mr. Chairman, I move to strike out the last word. In a discussion of this question a very interesting proposition has been raised. I have listened with extreme interest to the arguments which have been presented, and the argument of the gentleman from Wisconsin [Mr. Stafford] meets a good deal with my approval so far as it refers to the word "natives." We need a modification, but it will not do to strike the word out entirely. If you will follow me carefully I think I can show you why this section should be modified. The gentleman from Illinois [Mr. Mann] a few moments ago hit the nail squarely on the head when he said that a naturalized citizen of this country stands upon the same footing that a native-born American citizen does; and to my mind it seems that if we should draw any distinction in the enforcement of our laws as between naturalized citizens and native-born citizens of America, our bill in that regard would be unconstitutional, because it would not be guaranteeing equal rights to all the citizens of our country. When a person from a foreign country becomes a citizen of this country he is guaranteed all of the rights that you and I native-born citizens have. Some have suggested that to get around the point at issue we strike out the word "natives." That would then permit the native-born German who has become a naturalized citizen to stand equally with the American citizen here; that far it is all right, but what is the result when you strike out the word "natives"? This paragraph reads:

Such other individuals, or body of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy."

I can see where there might be a native of Germany who is not a citizen of this country nor a citizen of any of the warring powers.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. ROMJUE. Yes.

Mr. STAFFORD. Can the gentleman conceive of any individual who is not a citizen or a subject of some nation?

Mr. ROMJUE. No; I can conceive of no individual who is not a citizen or a subject of some nation.

Mr. STAFFORD. Then these two classes would cover all those who are citizens or subjects of any nation. There are only two classes recognized in international law—citizens or subjects.

Mr. ROMJUE. I will ask the gentleman to follow me for just a moment. You will notice that the text is:

That if the President finds that a successful prosecution of the war or the safety of the United States requires he may, by proclamation, designate natives, citizens, and subjects of our enemy nations in this war, as enemies.

You will notice from a reading of the paragraph that it covers all natives, citizens, and subjects of the nations with which we are at war. But a man may be a native of Germany and yet not now be a citizen or subject of Germany for the very simple reason that, though he was born in Germany, he has renounced his citizenship and has become a citizen of some other power, to wit, he may have become a citizen of Brazil or Sweden, and if you strike "natives" out of this bill you will deprive the President of authority under this bill to handle such a

person as he could handle the undesirable citizen of Germany. So to strike it out would be to err in that regard at least.

On the other hand, to leave the word "native" in the bill unmodified would mean that we would be enacting a law that would be enforceable against a native of Germany who is now a subject and citizen of this country, and who is no longer a citizen and subject of Germany, but yet a native of Germany. This would set up a rule, or rather a statute, enforceable against native-born Germans who are now citizens of the United States, and the same law would not apply to nor affect American-born citizens. Manifestly this would be wrong, and the President and no other thoughtful American citizen wants anything else than that all American citizens, whether naturalized or native born, abide by the same laws.

We are not at war with some of the nations of the world, and I repeat, that a native-born German may have renounced his German citizenship and yet he may not have taken out American citizenship. He may be a citizen of some other country that is at peace with all of the warring factions, if that be possible at this time. Therefore I say it is important that you do not strike out the word "natives" entirely.

MR. BLACK. Mr. Chairman, will the gentleman yield?

MR. ROMJUE. Yes.

MR. BLACK. Does not the gentleman think that it would be sufficient to say "natives, except naturalized American citizens"?

MR. ROMJUE. Yes; I think an amendment of that kind would correct the entire matter, and I really believe it ought to be adopted, because, as I said a moment ago, I do not believe we can constitutionally draw a distinction and enforce it as between naturalized and native-born citizens in this country, and ought not to attempt to do so.

MR. WALSH. Mr. Chairman, will the gentleman yield?

MR. ROMJUE. Yes.

MR. WALSH. Will the gentleman state how he construes the words "if he shall find the safety of the United States or the successful prosecution of the war shall so require"? Does he construe that to mean that these people shall do some positive act which will threaten the safety of the country or the successful prosecution of the war, or does he construe it to mean that the mere fact that they are naturalized citizens of enemy or ally to the enemy origin is sufficient to threaten the safety of the country or the successful prosecution of the war?

MR. ROMJUE. In answer to the gentleman I would say this, that there has been a great deal said here in the House from time to time about the authority that is given to the President of the United States, and we might as well say now that we are in a war, the most serious war that the world has ever seen, and we must trust someone. Some doubt the wisdom of giving President Wilson the authority that has been given to him, but there is not a man on the floor of this House who would intentionally sacrifice the honor of this Nation or do any injustice in carrying on the war, and I think it ill becomes us to question Mr. Wilson's motives and what he will do. We must give to somebody general blanket authority if we want to carry this war on successfully. If the President is given the authority under this bill it seeks to bestow, so far as dealing with enemies of this Government is concerned I have no hesitancy in believing that authority will not be abused and the

power it is sought to give is essential to the welfare of this Government. I will say I know of no better way of judging President Wilson's attitude in the future than by a consideration of the past, so far as regards people who will come under the provision of this bill, and, so far as I am concerned, I am ready for a little more drastic medicine for the spies who have sought to undermine our country.

Mr. PARKER of New Jersey. Mr. Chairman, just a moment. I am in favor of striking out the word "natives." It may be worth while to give the President power over all aliens, but I do not believe in giving the President any power over naturalized citizens that is not given over other citizens. Whether they be native or naturalized—born abroad—they are citizens.

Mr. FESS. Mr. Chairman, will the gentleman from New Jersey yield for a question?

Mr. PARKER of New Jersey. If I have the time.

Mr. FESS. Is there a stage in the process of naturalization where the one seeking naturalization is neither a subject or a citizen of the country from which he comes?

Mr. PARKER of New Jersey. No. He declares his intention, but he does not renounce allegiance until he is naturalized.

Mr. FESS. When he renounces allegiance that does not affect the entire loss—

Mr. PARKER of New Jersey. The declaration of intention does not renounce allegiance. Allegiance is renounced upon naturalization but not before.

Mr. FESS. There is no twilight zone when a man is without a country?

Mr. PARKER of New Jersey. No, sir.

Mr. FESS. Is the gentleman sure of that?

Mr. PARKER of New Jersey. Yes.

Mr. DEWALT. Mr. Chairman, in line with the suggestion and at the instigation of the gentleman from Virginia [Mr. Montague], who has charge of the bill, let me propose to the gentlemen who have taken exception to the word "natives" this tentative proposition, as suggested by the gentleman from Missouri. After the word "natives" insert the words "other than naturalized citizens."

Mr. MILLER of Minnesota. Why not use the language "who are not citizens of the United States"? That will take away any stigma that may seem to attach.

Mr. DEWALT. That would be the same thing—"who are not citizens of the United States." What would the gentleman say as to that phraseology? The gentleman from Illinois had objection to the word "natives," and I understood he had another amendment. How would that meet the objection of the gentleman from Illinois?

Mr. MILLER of Minnesota. Yes.

Mr. MANN. Where would that come?

Mr. DEWALT. After the word "natives," on page 24, line 19, insert "who are not citizens of the United States."

Mr. MANN. Well, the purpose would be all right, as far as I am concerned, but it would have to be a parenthetical insertion there. It would have to be a provision put inside of parentheses, and that is not very good legislation.

Mr. DEWALT. If you insert after the word "natives" these words: "Such other individuals or body of individuals as may be natives except such as are citizens of the United States"?

Mr. LONGWORTH. Let me ask, Who would that leave in the category? Who would be natives who would not be citizens of the United States under this paragraph?

Mr. DEWALT. Those who are natives of foreign countries.

Mr. LONGWORTH. Of the enemy's country. Who would they be?

Mr. DEWALT. There might be a great many of them.

Mr. LONGWORTH. I can not think of any.

Mr. ROGERS. Let me answer the question. Take the case of a man born in Germany who goes to Holland and is naturalized there and then comes to the United States and is naturalized here.

Mr. BURNETT. Why not have the word "natives" stricken out entirely and leave it "citizens or subjects of any nation"?

Mr. DEWALT. I do not know whether the gentleman from Alabama listened to the argument of the gentleman from Missouri, which was very able, in reference to the retention of the word "natives" in some form.

Mr. GARD. If the gentleman will permit a suggestion, how would the suggestion that the word "nonnaturalized" be placed before the word "natives" strike the gentleman? What does the gentleman think of that?

Mr. DEWALT. That would cure it, "or body of individuals as may be nonnaturalized." I think that would cure it, and that would meet the suggestion.

Mr. MANN. Why not strike out the word "natives"? Every other case is covered by the language of the bill.

Mr. BURNETT. That is my suggestion.

Mr. MANN. Strike out the word "natives."

Mr. DEWALT. Mr. Chairman, I recognize the force of the argument of the gentleman from Illinois in regard to the constitutionality of the provision, as it would clearly make a distinction between naturalized citizens of the United States and native-born citizens of the United States, and recognizing also that we all desire to frame the best legislation that we can with due regard to the interest of all the citizens of the United States whether they be natural or native born or foreign born, and yielding to none, in spite of the remarks of my eloquent friend from Wisconsin, in my admiration for the Germans, because I, too, am of German birth—my forefathers were born there, and I am of Pennsylvania German stock—recognizing all that, and desiring the best legislation in the interest of all, I would ask to strike out the word "natives." [Applause.]

Mr. MANN. We again recognize the ability of the gentleman from Pennsylvania.

Mr. LA GUARDIA. Mr. Chairman, I offer an amendment to the amendment.

Mr. MONTAGUE. Mr. Chairman, I ask that we may have a vote on the pending amendment.

The CHAIRMAN. The question is on the amendment of the gentleman from Massachusetts [Mr. Rogers] striking out the word "natives."

The question was taken, and the amendment was agreed to.

Mr. ROGERS. Mr. Chairman, I desire to strike out the word "natives." in line 15, on page 25. I ask unanimous consent that that word may be stricken out.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. Rogers: Page 25, line 15, after the word, "be," strike out the word "natives."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. MILLER of Minnesota. Mr. Chairman, I offer the following amendment.

Mr. LA GUARDIA. Mr. Chairman, I offer an amendment to the amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. Miller of Minnesota: Page 24, line 18, after the word "class," insert: "of individuals associated together for any purpose inimical to the safety of the United States or the successful prosecution of the war."

Mr. MILLER of Minnesota. Mr. Chairman, may I inquire of the gentleman in charge of the bill if he is willing to accept that?

Mr. MONTAGUE. Mr. Chairman, I ask that the amendment be read again.

The CHAIRMAN. Without objection, the Clerk will report the amendment.

The amendment was again reported.

Mr. MILLER of Minnesota. Mr. Chairman, by inadvertence the words "of individuals" were inserted and should not be included.

Mr. MONTAGUE. May I ask the gentleman how far his words—

The CHAIRMAN. Without objection, the gentleman from Minnesota [Mr. Miller] will be permitted to modify his amendment.

Mr. MILLER of Minnesota. The amendment must be made to strike out the words "of individuals" and insert it as I have made it.

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

Strike out the words "of individuals" and insert the following: "associated together for any purpose inimical to the safety of the United States or the successful prosecution of the war."

Mr. MILLER of Minnesota. The words "of individuals" must be included in the amendment.

Mr. MANN. Insert that after the word "individuals."

Mr. DEWALT. Will the gentleman from Minnesota [Mr. Miller] yield for a moment?

Mr. MILLER of Minnesota. Certainly.

Mr. DEWALT. I ask, with the permission of the Chairman, that the Clerk read the subsection now as it would read with the gentleman's amendment in it.

The CHAIRMAN. The Clerk will again report the amendment as modified.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Minnesota: Page 24, line 18, after the word "class," strike out the words "of individuals" and insert the following:

"of individuals, associated together for any purpose inimical to the safety of the United States or the successful prosecution of the war."

Mr. MONTAGUE. The words "of individuals" stricken out, not the word "individuals" contained in your amendment as offered and not the "individuals" contained in the bill itself?

Mr. MILLER of Minnesota. That is correct.

Mr. DEWALT. Suppose the Clerk reads the section with the amendment in it.

Mr. MANN. It is just as though the word "individuals" had not been stricken out.

Mr. MONTAGUE. We have no objection to that.

Mr. MANN. I think the gentleman ought to consider it very seriously. Will the gentleman yield for a question?

Mr. MILLER of Minnesota. I will be glad to do so.

Mr. MANN. Under the gentleman's amendment, as I understand it, if the President desires to declare anyone an alien enemy under the provisions of this act as a body or a class it must be people who are associated together for the purpose of injuring the United States in the war?

Mr. MILLER of Minnesota. That is correct.

Mr. MANN. Of course, that would be a matter of proof. The Government would have to prove when the matter came into court that these people were associated together. Now, does it not occur to the gentleman that there may be cases, quite a number of them, arising where the President should have the power to forbid German citizens or corporations in the United States to carry on business? We are commencing not merely a regular war, but we are commencing a trade war with Germany, partly by this bill and partly by what has taken place heretofore. We may find as a result of this bill that all American citizens in Germany are forbidden to do business over there. That might be prevented if the German Government knew that if they did that over there the President would promptly respond by forbidding German citizens over here doing business.

Mr. MILLER of Minnesota. I am very frank to answer that I do not think the President ought to have the power in a wholesale manner to put the stigma of alien enemy upon a class of people who are resident within the United States, without any proof or knowledge that many of the individuals included are disloyal to the Government of the United States or are engaged in hostile or improper conduct.

Now, I do not think England has gone that far, and she has gone a good ways when she has made a blacklist, which she has done to our exceeding sorrow and disadvantage. She did not blacklist groups or classes, but individuals, and that ought to be the test in the United States. We ought not to punish innocents any more than we ought to permit guilt while we are trying to avoid punishing innocents. We ought to be able to pick out the guilty and punish them. That is the theory upon which all law is founded, and that ought to be the theory of law in case of war. If there is a class of individuals or citizens of Germany, Austria, or Bulgaria, or any other nation, who are associated together for purposes hostile to the United States, in any form, it is easy to find out who they are and to punish them. But let us not put the stigma upon everybody that happens to be a citizen of those countries.

Mr. MANN. Mr. Chairman, will the gentleman permit?

Mr. MILLER of Minnesota. Certainly.

Mr. MANN. If there is any body or class of foreigners in the United States cooperating to injure the United States in this war, have we not got laws to punish them?

Mr. MILLER of Minnesota. Well, I suppose that is so.

Mr. MANN. What is the use, then, of putting this in? We have penal provisions against anything of that sort. That is treason, to begin with. We have laws covering those things. We passed a number recently covering everything of the sort.

Mr. MILLER of Minnesota. This is much broader language than that respecting treason. A person can be punished under this paragraph who could not be punished for treason.

Mr. MANN. It might not be treason so that it could be proved; but we have laws covering the cases to which the gentleman would confine this to.

Mr. MILLER of Minnesota. I do not think so, if the gentleman will permit. This language says, "in the successful prosecution of the war." That might mean anything.

Mr. MANN. The gentleman is trying to reduce his amendment to an irreducible minimum by stating that it does not mean anything.

Mr. MILLER of Minnesota. Oh, no; I am not.

Mr. MANN. If it means that the President is restricted in making his proclamation to classes who are actually engaged in cooperation with each other, which is a conspiracy to begin with and punishable under the conspiracy statutes, the gentleman takes away all power of the President over the matter at all; and if you want to do that the proper way to do it is to strike out all except "individuals" here; strike out "body or class." It would not mean anything, it seems to me; but I say that with due deference for the opinion of the gentleman, for whom I have the highest regard. It would not mean anything to say that the President may declare to be alien enemies the men engaged in a body who are actively engaged in a conspiracy against the United States.

Mr. MILLER of Minnesota. There is a distinction between an individual who is performing by himself what we might call direct acts against the safety of the United States, or against the successful prosecution of the war, and—

The CHAIRMAN. The gentleman's time has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MILLER of Minnesota. There is a distinction which should be drawn between that kind of an individual and one who may be associated with a large number of others, he himself doing nothing whatever except to give aid and comfort to the organization or agents of the organization doing the active work, and therefore there are two classes that the President ought to have the right to reach. Now, instead of the language I have quoted restricting the President, in my opinion it enlarges the field of his operations. Why? It enables him to issue his proclamation against all individuals as such and all who are

associated together or in any way engaged in any enterprise against the successful prosecution of the war. That might be an association of individuals who are opposed to the selective draft. They are not amenable to the laws of the United States at this minute, but the President might, if they were aliens, say that such an organization is inimical to the safety of the United States and against the successful prosecution of the war, and make these men that which they really are—enemies of the United States.

Mr. DEWALT. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Minnesota. Certainly.

Mr. DEWALT. The fault in the gentleman's amendment to my mind and to the minds of the members of the committee is this—and it is suggested very well by the gentleman from Illinois [Mr. Mann]—that it would place upon the Government the burden of proof as to this association for inimical purposes. When the gentleman first spoke of his amendment I suggested to him that he should incorporate in it these words, "that such association be determined by the President of the United States solely," and said that there was no objection to that.

Mr. MILLER of Minnesota. I have no objection to that being incorporated in it; none whatever.

Mr. DEWALT. Now, I ask, Mr. Chairman, that the Clerk read in the gentleman's time, if he will permit it, subdivision section (c) as amended, so that we shall have it clearly.

The CHAIRMAN. Does the gentleman from Minnesota yield for that purpose?

Mr. MILLER of Minnesota. I do.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Page 24, line 18:

"(c) Such other individuals or body or class of individuals associated together for any purpose inimical to the safety of the United States or the successful prosecution of the war as may be citizens or subjects of any nation with which the United States is at war, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war as may be citizens or subjects of any nation with which the term 'enemy.'"

Mr. LA GUARDIA. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Minnesota. Yes.

Mr. LA GUARDIA. Would not such an act within itself constitute a crime under existing law?

Mr. MILLER of Minnesota. No; it would not.

Mr. LA GUARDIA. I do not agree with the gentleman.

Mr. MILLER of Minnesota. I have just cited an instance.

Mr. LA GUARDIA. Yes; and the instance cited is opposition to the selective draft. The gentleman no doubt is aware of the fact that yesterday two persons were convicted in the United States Court for the Southern District of New York of that very act.

Mr. MILLER of Minnesota. A man doing that might bring himself within the laws now existing, but he might do a whole lot of acts that are not included in the laws now existing.

Mr. LA GUARDIA. He is taking that man and classifying him as an alien.

Mr. MILLER of Minnesota. That is what I am trying to do.

Mr. LA GUARDIA. If he commits an act and that act is a crime, the laws now take care of it.

Mr. MILLER of Minnesota. The purpose of this act is to prevent the commission of acts that are not crimes under existing laws.

Mr. LA GUARDIA. I think the gentleman is making this section vicious.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Minnesota. Yes.

Mr. MANN. The gentleman has noticed that the latter part of this paragraph requires the President to make the findings before he can name these individuals or bodies or classes of individuals.

Mr. MILLER of Minnesota. I noticed that.

Mr. MANN. And that he shall find, if the safety of the United States or the successful prosecution of the war shall require, that these people shall be declared alien enemies. Now, the gentleman proposes to insert at the beginning of the paragraph a jurisdictional class against which the President makes a finding at the end of his confirmation, but making it jurisdictional as to his authority to do anything about it at all that certain facts exist, which facts probably could not be ascertained until the war was over. It is drastic as the bill stands, but if we are going to have it drastic, and if the gentleman is in favor of having it drastic——

Mr. MILLER of Minnesota. I am in favor of having it drastic but not drastic in the sense of working a hardship upon innocent individuals.

Mr. MANN. I understand that, but the paragraph itself provides that the President shall make the finding, which the gentleman from Minnesota proposes to make jurisdictional.

Mr. MILLER of Minnesota. I do not think so.

Mr. MANN. Oh, yes.

Mr. MILLER of Minnesota. Not jurisdictional in that sense.

Mr. MANN. Oh, yes. If it is not jurisdictional, then it is merely duplication, because he has to make the finding. If it is jurisdictional, it is destructive, as it seems to me.

Mr. MILLER of Minnesota. If the gentleman will give me his attention. I desire to say this: As the paragraph is drawn the President can find that these individuals are acting in such a way as to be opposed to the safety of the United States or the successful prosecution of the war. If this amendment that I propose be adopted, there will be two things. Not only will he have authority to find that individuals are doing that, but he will also have authority and be required, if he exercises his authority, to find that individuals are associated together for the purpose—he has to make a finding of the purpose—for the purpose of being opposed to the safety of the United States or the successful prosecution of the war. Then he can do to them the same things that he can now do to individuals under the provisions of the bill as drawn.

Mr. MANN. Well, he can do that now.

Mr. MILLER of Minnesota. There are two findings that he will have to make. Under this provision as drawn he has to make one finding. If the amendment is adopted he will have to make two, as far as the individuals affected by this are concerned, namely, he must find that they are associated for this purpose——

Mr. MANN. The gentleman is one of the clearest-headed lawyers in this House, but on this matter he is wrong.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. MILLER of Minnesota. I ask unanimous consent for two minutes more.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent that his time be extended two minutes. Is there objection?

There was no objection.

Mr. MILLER of Minnesota. The purpose of this amendment is just one thing, and, to my mind at least, it can not be befogged so as to be obscured. It is to relieve from the harshness of this proposed law a class of individuals in the United States. I at first thought we might better strike out the body and the class. I think that is the opinion of the gentleman from Illinois [Mr. Mann], and that is the reason for his objection to this. After the debate that has occurred I do not go quite that far, because I can readily see that a class of individuals might be associated together for purposes that they ought to be prevented from carrying out and yet they would not be brought within the terms of this bill if we strike out the body or the class. But in order that in handling them we may not by that act inflict an unjust and unwarranted hardship upon innocent individuals, I propose to modify it so that if it shall become necessary for the President to act in reference to a body or class of individuals he must first find that the individuals who comprise the class and are being proceeded against are associated for an improper or enemy purpose.

Mr. MONTAGUE. Mr. Chairman, after the amendment of the gentleman from Minnesota [Mr. Miller] was presented I indicated my acceptance of it, but subsequently I found, upon reading it at the Clerk's desk, that I had not fully understood it. I therefore believe I was premature in indicating such acceptance.

This bill has been very carefully drawn. A great deal of time has been spent upon it. I submit to the committee that we ought to be conservative in making changes in it. Now, as respects this amendment, the provision that the individuals must be associated for what he terms inimical purposes—affecting the safety of the United States or impairing the successful prosecution of the war—requires the finding of a precedent jurisdictional fact. It imposes a condition precedent before the President can act. He must, as the gentleman from Illinois [Mr. Mann] has suggested, duplicate his actions. It is either a duplication or it puts an unnecessary burden upon the President, for he must practically first find the existence of a conspiracy, which should not be put upon him in this emergency; and I submit to the committee that we had better let it stand as found in the section.

Mr. GARD. Mr. Chairman. I ask that the Clerk read the section as it is already amended, with the proposed amendment of the gentleman from Minnesota, so that we may understand it.

The CHAIRMAN. If there be no objection, the Clerk will report the paragraph, as suggested by the gentleman from Ohio.

There was no objection.

The Clerk read as follows:

Page 24, line 18 :

"(c) Such other individuals or body or class of individuals associated together for any purpose inimical to the safety of the United States or the successful prosecution of the war as may be citizens or subjects of any nation with which the United States is at war wherever resident or wherever doing business as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require may, by proclamation, include within the term 'enemy.'"

MR. BURNETT. Mr. Chairman, if the amendment of the gentleman from Minnesota [Mr. Miller] is left as it is it seems to me to be a most dangerous proposition. I believe that the amendment offered by the gentleman from Minnesota modifies it and perhaps makes it just. If it is left in its present form, an innocent member of a body of individuals may be punished simply because that body is doing something inimical to the Government.

The gentleman from Illinois [Mr. Mann] has made a very cogent suggestion in regard to the two findings required of the President. The finding of one fact would be the finding of the other, and certainly whether the word "find" was in there or not the President ought not to do that unless he finds the fact to be true. He simply ascertains it; that is all. Talk about the burden of proof. Certainly the President will want to be convinced in some way before he does an injustice to somebody, and whenever he is convinced, and he has to be convinced by an investigation or by proof, and whenever he finds that they are banded together for purposes inimical or hostile to the United States, then the other finding follows, and it seems to me the gentleman, in splitting hairs, has made an argument here that shows a tendency, if the committee contention prevails, to bring about a dangerous condition. We have in our Constitution the right of trial by jury. We suspend all those things as to aliens during the war. Possibly that is right in emergencies, but certainly the President ought to have something upon which to act, and can he just pick up any man and merely because he is a native of Germany conclude therefore that that man is guilty of something that is inimical to the Government or that he ought to be suppressed or regarded as an alien enemy? Certainly the President will act upon some proof. He must act upon some fact, and some reasonable fact. Now, we all know that the President is a busy man, and we know that he will not have time to give these matters the personal investigation that perhaps a judicial tribunal would have the time and the opportunity to give, and that is a greater reason why we ought to hedge it about so that we will not be a government by autocracy.

Believing that our President is patriotic and would not desire to do an injustice to anyone, and the very fact that he cannot give each individual case that kind of investigation that ought to be given when we declare that a man is an enemy to this Government, ought to cause us to hedge the law about by every means possible to keep an injustice from being done. I think the talk about putting the burden of proof is an argumentum ad absurdum, because it implies that the burden will not be on the President otherwise to reach his findings. Whenever the first finding is passed then it seems to me he passes easily to the second finding, and that is easily determined by the proof that authorizes the first.

I have very few German people in my district, not one-thirtieth of the population of that district, and I believe that the most of them,

especially the naturalized citizens, are just as true and loyal to the Government and our flag as anybody else. I was glad when we struck out the opprobrium sought to be placed upon them by saying that a native-born German, even though he was a naturalized citizen, and even if he had joined the Army and was following the flag, if some evil genius wanted to bring trouble to him, might be declared an enemy under the great power given to the President. I tell you, gentlemen, we ought not to be swept off our feet; we ought to proceed cautiously. I believe the whole of this sentence ought to be stricken out. I believe it ought to be an individual proposition. If the President can find that anyone is inimical to our Government, why could not he fix a penalty for individual responsibility without embracing a whole class? I believe the whole sentence ought to go out in the form in which it is presented to us, because if we do not strike it out it will make more enemies, and say to our German friends, even though they have taken out naturalization papers and are not doing anything against us, "We are branding you as enemies," and will make in their hearts enmity that they do not all feel. [Applause.]

Mr. MONTAGUE. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was rejected.

Mr. WALSH. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Page 25, line 23, after the word "corporation," insert "or State or any political or municipal subdivision thereof."

Mr. WALSH. Mr. Chairman, this amendment is offered because the word "person" used in subsequent sections of the act may not include a State, city, or town or any other political subdivision of the State. It might be that an alien enemy would have property situate in some State or some political subdivision of a State upon which property the State or the city or town or township might expect to collect State or local taxes, and this amendment to the definition of the word "person" would permit the State or a municipal, local, or political subdivision of a State to present its claim for the taxes assessed on the property to the custodian of such property provided for in this bill and have that claim adjudicated or passed upon and approved and the money paid over. The State, city, county, township, or whatever subdivision of the State it might be might have a lien on that property for taxes or for betterments and the like, and under the provisions of the bill it is not clear in my opinion that the word "person" as defined in this paragraph and especially used in the sections following would include a city, town, township, or a county or the State.

I have in mind, for instance, where a person who under the provisions of this bill would be classed as an alien enemy, owning a summer estate and that estate being assessed and liable for taxes. I doubt if under the provisions of the bill the town in which that estate is situated would be able to file its claim for taxes with the alien property custodian and receive payment therefor.

Mr. MANN. Will the gentleman yield?

Mr. WALSH. Yes.

Mr. MANN. Does not the word "corporation" include it?

Mr. WALSH. It would not include a State, and it would not include some towns in Massachusetts, for instance, which are not strictly incorporated.

Mr. MANN. They do not have to be incorporated.

Mr. WALSH. Well, there is a doubt about it applying to such corporations.

Mr. MANN. Municipal corporation.

Mr. WALSH. Municipal corporation is not included in the division.

Mr. MANN. It says corporation.

Mr. WALSH. But the word corporation as used in the bill, as I have stated, especially in subsequent sections, would, I am inclined to believe, be interpreted to mean that it applied only to business or commercial corporations and not to municipal or political corporations. This amendment would clear up the doubt. Certainly after the property got into the custody of the Treasury of the United States or into the custody of this alien-property custodian, if there was any doubt about whether it included a political subdivision of a State and it meant the payment of money, the doubt probably would be resolved against the person; that is to say, the State, county, city, or town that was claiming payment. Certainly it would seem these taxes should not be lost to the State or localities levying them.

Mr. ELSTON. The gentleman is trying to particularize and cover all possible stages. Why cannot you say corporation, body politic or municipal? That would cover everything. If you said body politic it would cover it all.

Mr. WALSH. Well, Mr. Chairman, I ask unanimous consent to withdraw my amendment and substitute therefor, in line 23, page 25, the words "or body politic" after the word "corporation," in view of the suggestion of my learned friend, the gentleman from California [Mr. Elston].

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to modify his amendment to the extent stated. Is there objection?

There was no objection.

Mr. MILLER of Minnesota. Does the gentleman think that a State is a body politic?

Mr. WALSH. I do not know what else it is if it is not a body politic.

The CHAIRMAN. The Clerk will report the amendment as modified. The Clerk read as follows:

Page 25, line 23, after the word "corporation," insert "or body politic."

The CHAIRMAN. The question is on the amendment.

Mr. MILLER of Minnesota. Mr. Chairman, I desire to make an inquiry about this term "body politic" of the gentleman from Massachusetts [Mr. Walsh]. I have no doubt but that in a very general sense a body politic consists of any body or group of individuals grouped together for governmental political purposes. That is old language that used to be current a hundred years ago or more. It has practically disappeared from the textbooks and from the decisions, and in a strictly technical sense I question whether a State is a body politic, as States are organized now as parts of the Federal Government. Why not leave it as it was originally?

Mr. ELSTON. It is not intended to refer to States within the United States at all?

Mr. MILLER of Minnesota. Oh, I understand so. Why not leave that "or corporation, commercial or municipal"?

Mr. WALSH. Does the gentleman desire an answer from me?

Mr. MILLER of Minnesota. I am propounding my inquiry to the distinguished gentleman from Massachusetts.

Mr. WALSH. Mr. Chairman, in answer to the inquiry propounded by the gentleman from Minnesota, I would say that I think a State is a body of citizens upon whom are conferred certain rights by the Congress of the United States in pursuance of the Constitution of the United States. They are given certain duties to perform and are subject to certain liabilities, and certainly that political division could be construed to be a body politic just as much as a city which might be incorporated within a State, by and under the constitution of that State, the citizens of which should be given certain rights and privileges and would be subject to certain liabilities. The State would include the city and the city would be a body politic, certainly; and I think the State would be a body politic, perhaps raised to the "nth" power. Has the gentleman from Illinois [Mr. Mann] completed the search he desired to make?

Mr. MILLER of Minnesota. Does not the gentleman think the language would be improved if he were to strike out the word "or" before the word "corporation," and say "corporation, municipal corporation, or State"? Then there would not be any doubt about it.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. WALSH. Mr. Chairman, inasmuch as the modified amendment has been seconded by a member of the committee, I will ask the gentleman from Virginia whether the chairman will accept the amendment?

Mr. MONTAGUE. Mr. Chairman, the amendment is agreeable to me.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The amendment was agreed to.

Mr. SEARS. Mr. Chairman, a moment ago we amended the bill on pages 24 and 25—in line 19, on page 24, and in line 15, on page 25—by striking out the word "natives," but we failed to strike out the comma. I think the comma in both places should be stricken out.

Mr. MANN. That is a matter for the enrolling clerk. It does not require action on the part of the committee.

The CHAIRMAN. Without objection, the comma will be stricken out. There was no objection.

Mr. LA GUARDIA. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 24, line 18, strike out all of subdivision (c).

Mr. LA GUARDIA. Mr. Chairman, I can not conceive of any act committed as described in subdivision (c) which is not already covered by the penal laws. We seem to have lost sight of the fact that we included punishment in the espionage act, in the food-control bill, and in the selective-draft act. What is sought to be accomplished here is not

to punish an individual or a class of individuals because of an act committed, but in cases where there is suspicion and no evidence sufficient to warrant an indictment. To take these people, this whole class, declare them alien enemies and deprive them of any right under the law, deprive them of the writ of habeas corpus and detain them during the war, not because they have committed a crime, but on the say-so of the President or any other officer, violates every principle of free government known to us. We have extended extraordinary power to the President of the United States in every bill that we have passed. We have added riders in every bill, so much so now that we do not know whether we will pass the food-control bill before all of the food is consumed, wasted, or controlled by speculators. All because certain gentlemen in this House lost their heads one Saturday afternoon. Here we are writing into this bill after decrying autocracy, after praising the Russian commission for dethroning the Czar, words which will give the President or his administrative officers power to take any class of individuals, declare them enemies, and send them to concentration camps and keep them there, not because they have committed any act, because if they commit any act described in subdivision (c) there is ample provision to punish them, but because there is mere suspicion.

Mr. BLAND. Will the gentleman yield?

Mr. LA GUARDIA. Certainly.

Mr. BLAND. Does not the gentleman think there ought to be some provision here to meet extraordinary circumstances that might arise?

Mr. LA GUARDIA. Will the gentleman state the circumstances that might arise?

Mr. BLAND. If I could state them it would probably be included in the bill, but there might be circumstances arise with which we are not now familiar.

Mr. LA GUARDIA. I stated that I could not conceive of any act intended under this section which is not actually covered by other statutes if the act is committed or attempted. I say now that if one conspires against the selective draft, we have provided for it. If one does anything in reference to controlling food, we have provided for it. If one tries to impart information to an enemy, we have provided for it. You can not conceive of any act inimicable to the Government or to the successful prosecution of this war that is not covered by statutes; and yet here you are granting to the President power to take persons, to take classes of persons, declare them enemies and so treat them. This is the first time in the history of this country that we have included "classes" in a bill. We are giving power to take people by class and groups, without trial, without jurisdiction, without showing cause, without proper cause, and hold them until the termination of of the war.

Mr. ELSTON. Will the gentleman yield?

Mr. LA GUARDIA. I will.

Mr. ELSTON. The gentleman speaks of the classification of the enemy in such a way as to make it appear as if this was including the enemy in the general sense, whereas it is classified only in the sense in which this bill classifies the enemy. It will deprive him of certain rights in reference to trade and commerce. The gentleman speaks as if the designation of enemy would apply every penalty—

Mr. LA GUARDIA. As has been stated on the floor of this House he can not contract, he can not buy food, he can not——

Mr. ELSTON. He would not be put in concentration camps or be thrown into prison, as the gentleman says. It deprives him of certain civil rights.

Mr. LA GUARDIA. He could not go on a street car according to this bill; he could not buy food, and I respectfully submit this suggestion that this whole section should be stricken out. It is unnecessary. We have too many statutes now. We have created so many departments and offices, extended unheard-of powers, that we can not begin to remember them all. We should at least at this late day exercise better judgment and more calm deliberation.

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the Chair announced the yeas appeared to have it.

Mr. LA GUARDIA. Mr. Chairman, I ask for a division.

The CHAIRMAN. The gentleman from New York demands a division.

Mr. LA GUARDIA. Mr. Chairman, I withdraw the request.

So the amendment was rejected.

The Clerk read as follows:

SEC. 3. That it shall be unlawful for any person in the United States, except with the license of the Secretary of Commerce, as hereinafter provided in section 5—

(a) To trade, or attempt to trade with an enemy, or for, or on account of, or on behalf of, or for the benefit of an enemy, either directly or indirectly, with knowledge or reasonable cause to believe that the person with or for, or on account of, or on behalf of, or for the benefit of whom such trade is conducted, or attempted to be conducted, is an enemy.

(b) To trade, or attempt to trade, with an ally of enemy, or for, or on account of, or on behalf of, or for the benefit of, an ally of enemy, either directly or indirectly, with knowledge or reasonable cause to believe that the person with or for, or on account of, or on behalf of, or for the benefit of whom such trade is conducted, or attempted to be conducted is an ally of enemy.

(c) To transport, or attempt to transport, an enemy, with knowledge or reasonable cause to believe that the person transported, or attempted to be transported, is an enemy.

(d) To transport, or attempt to transport, an ally of enemy, with knowledge or reasonable cause to believe that the person transported, or attempted to be transported, is an ally of enemy.

(e) To transmit, or take, or attempt to transmit or take, out of the United States, in any manner, any letter, document, writing, message, picture, diagram, map, or other device or form of communication addressed to or intended to be delivered or communicated to an enemy, with knowledge or reasonable cause to believe that the intended recipient is an enemy.

(f) To transmit or take, or attempt to transmit or take, out of the United States, in any manner, any letter, document, writing, message, picture, diagram, map, or other device or form of communication addressed to or intended to be delivered or communicated to any ally of enemy, with knowledge or reasonable cause to believe that the intended recipient is an ally of enemy.

Mr. ESCH. Mr. Chairman, I offer an amendment. Line 5, page 28, after the word "map," insert the words "phonographic record."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Esch: Page 28, line 5, after the word "map," insert the words "phonographic record."

The question was taken, and the amendment was agreed to.

Mr. ESCH. I desire to offer a like amendment, in line 12, the same page, after the word "map."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 28, line 12, after the word "map," insert the words "phonographic record."

The question was taken, and the amendment was agreed to.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. I do not have an amendment to offer to this section except this pro forma amendment, but I would like to comment upon the section briefly before it is passed. It provides that it shall be unlawful for any person in the United States, except with a license from the Secretary of Commerce, to do certain things, which things are enumerated and which include under subsection (f):

To transmit or take, or attempt to transmit or take, out of the United States, in any manner, any letter, document, writing, message, picture, diagram, map, or other device or form of communication addressed to our intended to be delivered or communicated to an ally of enemies—

And so forth.

Now, that is conferring a very wide power upon the Secretary of Commerce and a power which hitherto, to a large extent, has been exercised in another of the departments of the Government, to wit, the Department of State. I have been wondering as I read this section whether there will not be a conflict of authority here as between two of the departments of the Government. We are by this act creating a great deal of business for the Secretary of Commerce and giving him a tremendous power, much of which, perhaps, involves diplomatic action by the Secretary of State, as, for instance, in the matter of documents, communications, and letters. You might go so far as to include passports. Is all this business to be taken over from the Department of State, business that may not pertain to trade at all, to the Secretary of Commerce; and if that is so, will it not lead to confusion in this country and a conflict of jurisdiction?

Mr. MANN. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. MANN. The gentleman will notice under the terms of the bill the Secretary of State himself may not communicate with Austria, Bulgaria, or Turkey except he obtains a license from the Secretary of Commerce.

Mr. MOORE of Pennsylvania. That is in point. These are certainly extraordinary powers that are being given to the Secretary of Commerce, who hitherto has exercised no such authority with regard to our international affairs.

Mr. WINGO. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. WINGO. In reply to the interrogatory of the gentleman from Illinois, these restrictions in reference to license apply to no one other than persons. They do not apply to officials. It is limited to persons, and does not include officials.

Mr. MOORE of Pennsylvania. An official is a person; he must necessarily be.

Mr. WINGO. He does not send a communication as a person; he sends it as an official.

Mr. MANN. Official person, of course.

Mr. WINGO. The gentleman does not think an official communication is sent by a person. It is sent by an official of the department.

Mr. MANN. Any official in the United States of a petty corporation may send anything he pleases, regardless of this.

Mr. WINGO. I am talking about public officials.

Mr. MANN. I am talking about public officials—a public official of Podunk County, or some other official, of the city of Chicago, say.

Mr. WINGO. We are talking about those communications which officials have the legal capacity to send. A public official of Podunk County has no official right, nor can he send an official communication to Austria.

Mr. MOORE of Pennsylvania. Suppose there is a dispute as to whether a communication is going to an enemy or ally of an enemy, and it is such business as would ordinarily go through the Department of State, is the American citizen who desires to enter into communication with some one in a foreign land to go to the Department of Commerce and then be turned over to the Department of State, or is he to apply in the usual way to the Department of State?

Mr. WINGO. I will answer the gentleman that if it is a communication addressed to the Austrian Government, for instance, it would be proper communication to go through the Department of State. If it is a communication with reference to commerce, should it not go through the Secretary of Commerce?

Mr. MOORE of Pennsylvania. The language does not confirm that. No one can send a letter or document—and "document" is a term usually applied to official papers—without obtaining a license. Not from the Secretary of State but from the Secretary of Commerce. It may be an official matter. It may be a matter having no relation to the enemy or the ally of an enemy. It may be diplomatic, yet the license must be had from the Secretary of Commerce.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. Moore] has expired.

Mr. LA GUARDIA. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. La Guardia offers the following amendment: Page 28, line 1, after the word "manner," insert the words "other than by means of the United States mails."

Mr. LA GUARDIA. Now, Mr. Chairman, if the chairman of the committee will kindly give me a little bit of his attention, I wish to say that I was startled yesterday when a member of the committee stated that under this provision no letter could be mailed to a relative residing in a country allied to the enemy. Now, then, if it is the purpose to stop all communication, well and good, but let us not make the mere mailing of a letter a crime, because I am sure the gentlemen of the committee will agree that there are a good many law-abiding, innocent people in this country who do not read the Congressional Record or the Official Bulletin, and it may be many weeks before they learn that the United States Congress passed any such extraordinary, unnecessary, and unusual provision.

Now, then, if we will permit the mailing of a letter, the Government, of course, can control the mail. Whether they send the letters on or not is another question. But let us not make the mailing of a letter a crime. There are thousands of law-abiding persons—Croatians, Ruthenians, Slovonians, Turks, and Bulgarians—all over this country who have relatives abroad, and who are likely to mail a letter. And what is going to happen? These men will be listed in the various mining camps and the different coal regions, or wherever they may be; and if there is any labor disturbance, or if at any time the local authority may wish to exercise this power, these innocent people will be indicted under this provision for the very innocent act of mailing a letter. I wish to make it clear. The Government has power to intercept mail—stop communications—but this provision makes the mere mailing of a personal letter a crime carrying severe punishment.

Mr. WINGO. Does the gentleman interpret the language of this bill as to communicating to an ally of an enemy as having any bearing upon a man writing to his relatives?

Mr. LA GUARDIA. Yes, I asked a member of the committee yesterday, and I was surprised to hear it. That is just what it means.

Mr. WINGO. I am surprised to hear the gentleman's viewpoint.

Mr. LA GUARDIA. I got the viewpoint of the members of the committee, and I am trying to express it. Now, if the committee's purpose is to have this bill enacted into law, and it is an emergency purpose, let us try to send one bill to the Senate that is logical, sensible, and necessary. The Senate is now overworked in trying to untangle our blunders here. I urge the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. La Guardia].

The question was taken, and the amendment was rejected.

Mr. GARD. Mr. Chairman, I desire to offer an amendment, and in doing so I wish the attention of the gentlemen in charge of the bill. I notice in section 3 and in its subdivisions (a), (b), (c), (d), (e), that there is duplication, and I would suggest for the sake of economy in the bill and a better understanding of it, using the illustrations in (a) and (b) on line 6, page 27, it be made to read as follows:

To trade, or attempt to trade, with an enemy, or with an ally of the enemy.

Because subdivision (a) and subdivision (b) are identical in terms, except one is trading with the enemy and the other is trading with an ally of the enemy, and it can be made much more comprehensive and concise by putting "ally of the enemy" in with "enemy." I do not desire to offer the amendment, but I desire to call it to the attention of the committee also in respect to subdivisions (c) and (d). One is attempting to transport an enemy and the other is attempting to transport an ally of an enemy. And the same with regard to subdivisions (e) and (f), with regard to transmission out of the United States. One is to an enemy, and one is to an ally of an enemy in a certain matter.

Mr. MONTAGUE. If the gentleman will permit me for a moment, this subject was quite carefully considered in the committee, and we came to the unanimous conclusion that we had better leave it as it was. There is force in the suggestion of the gentleman from Ohio, I will say, and if I had drafted the bill perhaps I would not have framed it as it is.

Mr. MANN. The purpose of it was, no doubt, to enable the President to suspend the law as to an ally of the enemy.

Mr. MONTAGUE. Yes. It may give uniformity, but I think we had perhaps better leave it as it is.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois moves to strike out the last word.

Mr. MANN. Mr. Chairman, under these two paragraphs of this section it becomes impossible for anyone in the United States to communicate in any way whatever with their relatives or friends in Germany, Turkey, Austro-Hungary, or Bulgaria, with the further statement that the President may suspend the operation of the act as to the three latter named countries.

Of course this is a very hard rule to enforce. We who have been raised in the United States for several generations and who do not have a mother or father or brothers or sisters or nephews or nieces or other close relatives abroad may not fully appreciate this drastic provision, that the son or daughter here may not even make an effort to learn whether the mother or father in Germany or Turkey is alive.

Now, I do not say that this legislation ought not to be enacted, although I have grave doubts about it. But if this legislation is enacted, it seems to me that it is the duty of the Government itself, then, through the State Department, to make inquiry at the request of people here, citizens of the United States, concerning their relatives in Germany, to know whether they are alive. That the State Department now refuses to do. We do not in fact now have any real communication. You can not send a letter now—a relative here can not—and get it through the lines to a relative in Germany, and you can not get information here unofficially in reference to relatives in Germany, because they are not permitted to send communications here; and the State Department—I do not say they are not right about it up to date—refuses to make any inquiry, which, of course, they could do through the Swiss and Spanish legations.

I have always observed in a good many political fights the amenities of life between partisans. I do not feel myself that, because we are in a war where it is our duty to exercise every power which we can bring to bear to win victory, it is necessary for me to add personal hatred toward all the people who are born in Germany, nor do I think it advisable in the United States to undertake to inculcate the idea that all people born in Germany are therefore monsters and ought not to be communicated with. I think that the Government of the United States ought, when it forbids private communication, to at least have some method of ascertaining as to the living of some of the people in Germany who are relatives of people in the United States.

Mr. GARD. Mr. Chairman, I move to strike out all the language on page 28 between lines 3 and lines 16, inclusive; in other words, to strike out subdivisions (e) and (f).

The CHAIRMAN. The gentleman from Ohio offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. Gard: Page 28, strike out all of subdivisions (e) and (f).

Mr. GARD. Mr. Chairman, I do that because it seems to me that the question of communication, in so far as it may exist in the judgment of the United States, between anyone in the United States and an enemy thereof is amply taken care of by legislation which was recently passed. I refer to the so-called espionage bill, which had its approval only on June 17 of the present year. Section 2(a) of that act provides that—

SEC. 2(a) Whoever, with the intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to, or aids or induces another to, communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by imprisonment for not more than 20 years: *Provided*, That whoever shall violate the provisions of subsection (a) of this section in time of war shall be punished by death or by imprisonment for not more than 30 years; and (b) whoever, in time of war, with intent that the same shall be communicated to the enemy, shall collect, record, publish, or communicate, or attempt to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the armed forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense which might be useful to the enemy, shall be punished by death or by imprisonment for not more than 30 years.

It seems to me, Mr. Chairman and gentlemen of the committee, that the language I have read, and preceding and succeeding language also with which the members of the committee are as familiar as I am, and which therefore I shall not read, will take care of every possible and proper situation. I question—seriously question—if it be the rightful province of the Congress of the United States at this time to take such drastic action as to say to a son of an old resident of Germany that he may not communicate with his father in the old country—that he may not send a letter to know what the state of his health may be.

This war, as the President of the United States has well said, is not a war of hatred of the German people, but a hatred of the autocracy of their Government; and I fear that the incorporation of proposed legislation such as this would have but one effect, and that would be the beginning of a great hate, which we have sought to avoid.

Mr. McKEOWN. Mr. Chairman, will the gentleman yield?

Mr. GARD. Yes; I yield.

Mr. McKEOWN. I will ask the gentleman, if this section remains in the bill will it prevent a son or a daughter who is maintaining an aged father in Germany from remitting money to him to maintain him?

Mr. GARD. I would say unquestionably it would.

I go as far as any man, Mr. Chairman, in desiring to do everything possible for the protection of the United States, but I do not think we should go so far as to say that the most intimate of innocent family relationships should be severed by legislation action, or should be absolutely prevented, when there is no harm coming to the United States. Some one yesterday—I think it was a member of the committee—said it was intended to cover all possibilities of communication by cipher code or otherwise. Surely that is reaching the extremity in legislation,

because the United States has an abundance of opportunity to inspect outgoing and incoming mail. It has done it and is doing it now ; and the law at present provides a drastic penalty for anyone who sends or attempts to send any information abroad which may be beneficial to the enemy or prejudicial to our national defense. I think we have safeguarded every American interest. To go beyond that would be, to my mind, an invasion of the province of humanity and would suspend the very intimate relations of members of the family for no purpose except to inspire a degree of hatred which fortunately does not at this time exist.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONTAGUE. Mr. Chairman, I will say to the committee, as I said on yesterday, in relation to this amendment, that these sections lessen the present rigor and inhibitions of international law; they give the right to issue licenses whereby letters may be sent out of the United States. I concede that existing law is hard and drastic, but in the midst of war we can not have qualms about matters of this sort. Sending money abroad for the purpose of assisting the aged mother or father needing support has been suggested by the gentleman. That appeals to the instincts of humanity, but manifestly no Government conducting a war would permit its citizens to send money to the enemy country for any purpose. It is subject to confiscation when it gets to the other Government, and it seems to me the wisest and best course is that contemplated by this bill, namely, that these hardships may be taken care of by licenses, and that the Government in the administration of the matter, as suggested by the gentleman from Illinois [Mr. Mann] a while ago, can best meet the necessities and respond to the humanities of the case.

Mr. MANN. Will the gentleman yield for a question?

Mr. MONTAGUE. I will.

Mr. MANN. The gentleman stated that international law now forbids doing any of these things, and that this will permit them to be done, as I understand him.

Mr. MONTAGUE. I think international law forbids the transmission of letters between the citizens or subjects of belligerent nations.

Mr. MANN. If international law already forbids it, I suggest that there is some doubt whether this would permit it. This is negative in form, not positive. This does not grant a right; this forbids certain things. If international law now forbids them, this does not grant the right.

Mr. MONTAGUE. But if the gentleman will turn to section 5. I think he will find that licenses can be given to effectuate the proper transmission of letters.

Mr. MANN. But it does not say what they can be given for. This section says it shall be unlawful for any person in the United States, except with the license of the Secretary of State as hereinafter provided in section 5. Now it may be inferentially understood that that gives a right now forbidden by law, if you obtain a license, but that is only an inference. To give a positive right by an inference is never a good method of legislation. If the gentleman is correct in concluding that all of these matters are now forbidden by international law, then the language of the bill ought to be changed, and it ought to be made lawful, with the licensing, to do these things.

Mr. MONTAGUE. Does not the gentleman think that when the license is issued it does make such transmission lawful?

Mr. MANN. I think myself that the gentleman overstated the case when he said that the sending of a letter from a private citizen in the United States to a private citizen in Germany is forbidden by international law, if the letter relates only to private affairs.

Mr. GARD. Will the gentleman inquire if the gentleman in charge of the bill [Mr. Montague] has any authority or any precedent for the statement that the sending of family letters is prohibited by international law?

Mr. MANN. I think the gentleman from Virginia did not intend to say that. I think he meant to say that if general trading was now forbidden, this would permit it; but it is only a permission by inference.

Mr. LA GUARDIA. Will the gentleman permit a question?

Mr. MONTAGUE. Yes.

Mr. LA GUARDIA. The purpose of my amendment was not to permit the transmission of letters, but to moderate the severe punishment provided in this bill for the mere mailing of a letter.

Mr. MONTAGUE. I understand the gentleman's amendment has been disposed of.

Mr. DEWALT. Quite a long while ago.

Mr. MONTAGUE. We are now dealing with the amendment of the gentleman from Ohio.

Mr. GRAHAM of Illinois. I should like to ask the gentleman a question.

Mr. MONTAGUE. I yield to the gentleman from Illinois.

Mr. GRAHAM of Illinois. Does the gentleman in charge of the bill know of any power in the Government at this time under existing law to open and inspect the contents of letters passing between this country and other countries?

Mr. MONTAGUE. There is the censorship power.

Mr. GRAHAM of Illinois. Does it extend that far?

Mr. MONTAGUE. I think it does. I think that power has been exercised in nearly every war. It was exercised very drastically during the Civil War.

Mr. GARD. It is being exercised now.

Mr. GRAHAM of Illinois. By the general powers of the Government, so that a letter written here to someone in Germany could be examined by our authorities?

Mr. DEWALT. Certainly. There is no doubt about that.

Mr. WINGO. Mr. Chairman—

Mr. WALSH. Will the gentleman yield for a question?

The CHAIRMAN. The gentleman from Ohio has the floor.

Mr. GARD. I wish to ask the gentleman from Virginia whether he has read the section of the law which was read to the committee, and whether he is not satisfied therefrom that it affords every protection, so far as the transmission of any information relative to the national defense is concerned?

Mr. MONTAGUE. The Secretary of Commerce in the hearing did not think it afforded the necessary protection. Therefore he insisted on these provisions, as the gentleman will observe by reading the hearings.

Mr. WINGO. I assume that all desire to pass legislation embodying the main purpose of this bill—that is, to prevent trading with the

enemy. I assume that we propose to prohibit any kind of communication that will be of military advantage to the enemy or a military detriment to our own country. I think we can accomplish these ends without at the same time prohibiting the class of communications to which attention has been called.

I do not agree that international law now prohibits the sending of private letters. I think a more correct statement of international law is that international law permits a belligerent government to censor or prevent the delivery of letters that under the censorship is deemed detrimental from a military standpoint.

After all, international law on this subject, I suspect, is susceptible of misunderstanding, as on many other things. I can conceive how it is possible for a man being liable to criminal punishment under this act by simply mailing a letter to a relative in Germany, even though it be a proper letter of no value to the enemy or injury to this country. In any event the Government controls the mail and may hold the letter.

Take the illustration someone has already given. Some man of German parentage living in this country, a loyal American citizen, a man whose soul is wrapped up in loyalty to the flag and our own country, as much so as any native born, and yet he has in his heart a very natural desire to know something about the welfare and condition of his parents in the enemy country. Now, I agree with the gentleman from Illinois that we do not undertake to relieve that situation by providing that the Secretary of Commerce may license these things.

If it be prohibited by international law, as is contended, then in order to give the relief it appears to me we should by some affirmative declaration impose upon some department of the Government the duty of trying to get this information for these unfortunate people who are loyal to this country, but yet who have a right to get information as to the relatives who happen to be living in a belligerent country, and I can not see where any injury could come to the Government if we made it the duty of someone to do that.

Mr. DECKER. Mr. Chairman, will the gentleman yield?

Mr. WINGO. Yes.

Mr. DECKER. Did the gentleman understand that the bill itself specifically defines what the word "enemy" means?

Mr. WINGO. Yes; that occurred to me after I made the statement a moment ago.

Mr. DECKER. According to international law, I think probably the gentleman's statement would be correct.

Mr. WINGO. That occurred to me after I made the statement a minute ago. We undertake to say in this bill that the word "enemy" shall include persons living in a belligerent country, but the thing that appeals to me is the suggestion of the gentleman from Illinois, as well as the suggestion of the gentleman from New York. There are a great many good people in this country who are loyal—I know some of them—who have relatives living in Germany. I know a Frenchman, born in France, a loyal citizen of this country for years and years, a man who has been elevated to high office in his community, who wants to keep in touch with his sister and nieces in Germany, who are detained there—not permitted to go out of the country. I have as best I could through the State Department obtained the information for him

during the last few years. Now that war has been declared between the United States and Germany, that man, hating the German Government as much as any native-born American citizen, might address a letter to his French sister in Germany, and under this bill he would commit a crime. That ought not to be permitted by any language in this bill, and we ought to go further. We ought to make it the duty of the Secretary of Commerce, or of the State Department, which I think would be preferable, to conduct these inquiries and in that way not only protect the Government against information going there but still at the same time afford the information that these unfortunate people are entitled to.

Mr. TEMPLE. Mr. Chairman, there is one question that I should like to ask the chairman of the committee. The word "enemy" as used in this bill is defined in section 2, and the definition includes this language:

Any individual, partnership, or other body of individuals of any nationality, resident within the territory * * * of any nation with which the United States is at war.

It is with regard to the word "resident" that I desire to make the inquiry. Does that mean having acquired what we know as a legal residence, a domicile?

Mr. MONTAGUE. No; it does not. The word "residence" is much broader than the word "domicile." Domicile would give you perhaps the idea of permanency, of a legal habitat, but the word "resident" means a sojourner staying or residing in. It embraces domicile and is broader than domicile.

Mr. TEMPLE. If it is not limited to domicile but includes residents of any kind, would it include an American boy in the Army of the United States who had been captured and held as a prisoner of war in Germany?

Mr. MONTAGUE. I should think not.

Mr. TEMPLE. What is there in the bill to show that such a temporary sojourner in Germany is not included in this definition?

Mr. MONTAGUE. He is still a citizen of the United States.

Mr. TEMPLE. Oh, but I asked the gentleman whether it meant domicile or legal residence, and his reply is that it means a temporary sojourn. If it means a temporary sojourn, it may be conceivably applied to one of our American soldiers in prison there.

Mr. MONTAGUE. I will say to the gentleman that I do not mean it does not include a sojourn. It includes that, and it includes much more, but the gentleman's opinion upon that matter is one that I would give great deference to.

Mr. TEMPLE. I have no opinion. I am trying to find out what the bill is intended to cover.

Mr. MONTAGUE. I could not think that the bill is intended to cover a member of the expeditionary force sent to the enemy country.

Mr. TEMPLE. Without being so intended, does the bill actually do that?

Mr. MONTAGUE. I do not think so.

Mr. TEMPLE. I attempted to clear the ground with my first question to learn what the word "resident" meant in this section: whether it meant one who acquired a legal domicile, a legal residence, and the reply was no.

Mr. MONTAGUE. I did not say that. I said it includes that, and it includes much more.

Mr. TEMPLE. Oh, yes; it includes much more. Then I want to know whether it includes anybody who might in any sense be a resident of Germany, and if so, why does it not include our own soldiers who may be unfortunate enough to be captured?

Mr. MONTAGUE. Because a soldier upon the soil of Europe is in no sense a resident. He is not there by his own volition. He is not there exercising any of the civil functions of a resident.

Mr. TEMPLE. He has acquired no domicile or legal residence.

Mr. MONTAGUE. He may not be a sojourner at any given spot for one minute. He is under the flag of the United States and under the command of the United States.

Mr. TEMPLE. There is no doubt about that.

There is no doubt that he has not acquired a legal residence, but might it not be wise to make the bill unmistakable on that point?

Mr. MONTAGUE. What would be the gentleman's suggestion?

Mr. TEMPLE. I have not had time to formulate any definite ideas, and I am not sure that it is necessary. I was seeking information from the committee.

Mr. WINGO. Will the gentleman yield?

Mr. TEMPLE. I will.

Mr. WINGO. May I call the gentleman's attention to the fact that one State court has passed upon the word "resident"? The legal decision, and it was in a liquor case, of the word "resident" is one who has fixed a place of abode—

Mr. TEMPLE. I know the definition.

Mr. WINGO [continuing]. With the intention of remaining there until unknown exigencies of life call him hence. I believe that is the wording.

Mr. TEMPLE. I am well acquainted with that. Another point I want to speak about in connection with this matter is the statement which has been made two or three times that communications of any kind by mail or otherwise are contrary to international law. It seems to me that is a mistake. So far as I am acquainted with the law of nations, it does not make any provision as to what may take place between two belligerents, except that they must conduct their warfare under certain restrictions and in accordance with certain rules and usages. If they wish to arrange any kind of communication, they may do so. Arrangements have been made by which prisoners in Germany may receive even packages from home. I have seen letters written by English prisoners in Germany saying they received packages of food from home and that Russian prisoners are sometimes hungry because they have not received like parcels from Russia.

Mr. MONTAGUE. That is done under permit or license of the Government.

Mr. TEMPLE. International law neither requires nor forbids it. It depends on what arrangements the opposing belligerents make.

Mr. MONTAGUE. But under international law all trade and instrumentalities of trade are either suspended or interdicted upon the breaking out of war—

Mr. TEMPLE. That is true of commercial relations.

Mr. MONTAGUE. And there are included in such instrumentalities everything for the transportation of mail.

Mr. TEMPLE. Mail from this country?

Mr. MONTAGUE. To a belligerent country.

Mr. TEMPLE. It might easily be sent to Holland and then into Germany; that would be the natural line of communication.

Mr. MONTAGUE. That is another question.

Mr. TEMPLE. That will depend upon whether the Post Office Department shuts off the transportation of the mail.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DEWALT. Mr. Chairman, I ask that the time of the gentleman be extended for one minute for the purpose of asking him a question. I believe the gentleman will agree as a lawyer that residence is a matter of intention coupled with facts consistent with that intention.

Mr. TEMPLE. I am quite familiar with the legal interpretation of the word "resident."

Mr. DEWALT. That is the legal definition.

Mr. TEMPLE. My first question was whether the term as used in this bill was to be confined to that, and the answer was it was not.

Mr. DEWALT. Now, the word "resident" having that definition of law, namely, that it is a matter of intention coupled with facts consistent with that intention, it certainly could not apply to a captured soldier who was upon German territory or allied territory, because he has no intention of residing in that country and there are no facts consistent with that intention which might make him a resident, and therefore it certainly could not include that.

Mr. TEMPLE. The gentleman will remember, however, when I asked whether the word "resident" was to be interpreted in that way he replied, at the beginning of my remarks, that it was not to be limited to that interpretation.

Mr. DEWALT. I understand, but the gentleman re-formed his answer.

Mr. TEMPLE. Then I will re-form my remarks.

Mr. MONTAGUE. The gentleman is correct, but in my answer I stated that it might be included, but that it also included much more.

Mr. WALSH. Mr. Chairman, I understand this is the section which gives to the Secretary of Commerce authority to license certain things to be done, which powers otherwise would be contrary to law unless so licensed. It seems that certainly one other department of the Government recently has taken occasion to license something which in its result was very surprising to the American people, and on the evening of the 3d of July in many of our large communities our good citizens were awakened by the cries of the newsboys hawking extra editions announcing to an anxious people the adventurous and perilous journey which had been taken by some of our transports and their safe arrival after attacks in the night by enemy submarines, "in force," as it was stated. It might have been "poetic" license or possibly a lively and lurid imagination aroused by the approach of the Nation's holiday that on the receipt of official dispatches from an admiral of our Navy setting forth the safe arrival of our transports at their destination across the seas that permitted, with official sanction from high official sources, their transcription and elaboration worthy of a chronicler of Capt. Kidd, relating to an attack that was made, as it was so vividly

stated, upon our ships "in force" under cover of darkness, with torpedoes speeding by and the defense that was made by our fleet, with "our high-seas convoy" which "circled with their searchlights, answering with heavy gunfire, which heavy gunfire and the accuracy of that fire resulted in the torpedo discharge becoming increasingly scattered," but Mr. Chairman, up to the present moment we have only this tale coming from high official sources about what actually took place. We are told the attack was made in force, although the night, illuminated by searchlights though it was, "made impossible any exact count of the U-boats gathered for what they deemed a slaughter."

The world also was told that the expedition was divided into contingents, and that a rendezvous had been arranged, and that the attack was made beyond the rendezvous.

This announcement, coming as it did, couched in flamboyant style, was the work presumably of the Bureau of Public Information, which bureau was presumably to have been the official censor of the Nation had not the Congress eliminated the censorship section from the espionage bill. We have now had exemplified what would possibly occur should we have authorized any sort of censorship heretofore, or should we provide for it in this bill or in any other measure which later may come before the Congress. And when the gentleman who is in charge of this bureau of information established upon somewhat hazy authority, as I view it, was asked to give the official news, he stated that if he did that, I understand it might disclose the latitude and longitude where this attack of U-boats was made upon our fleet, as if, perchance, the captains of the U-boats were interested in knowing the latitude and longitude of the ships which they were at that moment attacking. I submit that that blundering method of arousing the interest of our citizens and seeking to frighten the people of America by elaborating official reports is not to be encouraged and ought not to be accepted as a method or plan to be followed in the future. The people are entitled to know the facts without "frills and furbelows," at least such facts as may be divulged without giving useful information to the enemy.

We should take all steps necessary to cloak with secrecy the movements of our ships. But it is likewise true that our people at home should not be aroused by any such sensational accounts which were made public in order to give the American people "a happy American holiday." To do things like that, in view of the experience that Great Britain has had in shipping her troops, both across the Channel and from Canada in safety, which she has been able to accomplish during the past three years, and to embellish and color official reports, in order to give assurance of success in a great undertaking, will only tend to frighten the American people, will have ill effects upon them, arouse them, and cause them unnecessary apprehension and terror, and cause discontent and anger when the truth becomes known.

And so I trust if there is any power to license given in this bill that the instance of license, poetic or otherwise, which we have recently witnessed and read of during the past week can not be taken as an example of how that power and authority will be exercised in the near future. What the people would now like to know is whether there was an attack, or attacks; and if so, what happened?

As a matter of fact, as I understand it, the Associated Press, that great news-gathering agency of this country, loyal to our Government, every member of it, had a correspondent accompanying our troops, and he sent dispatches to this country announcing the safe and uneventful voyage of our troops; he, at least, was not aroused by heavy gunfire and the uproar of battle; and on July 5 he sent a second dispatch stating there had been no attack. Later Associated Press dispatches which had passed the censor of our forces in France were received here, but were intercepted and were not delivered until they were taken to one of the departments and there inspected and, possibly—I do not know—censored: but they were delayed for several hours, with no previous notice of this intended action having been given. Possibly because they did not correspond to the highly tinged account which had been published and which bore the approval of one of the Secretaries of an executive department of this Government, they were withheld from those sources for which they were intended—from the press association, to which they were addressed, and delayed for several hours—a questionable proceeding. That is another exercise of assumed or pretended censorship that the American people will not take kindly to. The American press of our Republic has set a high standard, as a whole, of patriotism. Indeed, I believe the editors may possibly be the best censors of news. Their judgment in the main can be safely trusted. [Applause.]

MR. MONTAGUE. Mr. Chairman, I ask unanimous consent that all debate on this amendment shall close at the end of three minutes.

MR. TEMPLE. Will the gentleman yield for just a moment? My attention was diverted from the point I intended to make.

MR. MONTAGUE. I will say to the gentleman from Pennsylvania [Mr. Temple] that the gentleman from Ohio [Mr. Gard] has the floor.

MR. TEMPLE. I beg the gentleman's pardon.

MR. GARD. I will be very glad to yield to the gentleman from Pennsylvania.

THE CHAIRMAN. The gentleman from Virginia [Mr. Montague] asks unanimous consent that all debate upon the section and all amendments thereto close—in what time?

MR. MONTAGUE. In four minutes.

MR. HULBERT. Mr. Chairman, reserving the right to object, I think the request as submitted was as to the amendment and not to the section. I would like to have five minutes for the presentation of an amendment to the section.

MR. MONTAGUE. Make it 10 minutes.

THE CHAIRMAN. The gentleman from Virginia [Mr. Montague] asks unanimous consent that debate on the section and all amendments thereto close in 10 minutes. Is there objection? [After a pause.] The Chair hears none.

MR. GARD. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. Temple].

MR. TEMPLE. Mr. Chairman, this was the point I intended to make, but my attention was diverted. If we intend to maintain communication with our boys who may be prisoners in Germany it must be with the consent of the German Government. We can not do that, probably;

we can not get that consent unless we make it possible for German prisoners in this country to communicate with their friends at home. I was laying the ground for this conclusion to my remarks, but interruptions had the double effect of consuming my time and diverting my attention.

Mr. GARD. Mr. Chairman, it is well recognized what is the existing status in the matter of communication by mail with foreign countries. It has been said in the debate, and I suspect it is true, that the Government of the United States has availed itself of its powers and has opened and examined mail which was addressed to someone in a foreign country, a country with which we are at war. That has prevailed, as has been said, and it is a proper provision under existing circumstances, but it is proposed in this legislation which is embodied in subdivisions (e) and (f) of section 3 to make it a crime for anyone in the United States to deposit in a mail box, here in Washington or in Chicago or elsewhere, a letter entirely free of wrong intent addressed to a parent, or other relative, or friend in a country with which we are at war. Now, I think we discussed here for many days the proposition which is at the base, it seems to me, of all these matters, and that is that we should do everything possible to bring the war to a hasty and successful conclusion, and do everything to bring victory to American arms. And we have been trying in our legislation to do that sensibly and well. But this goes so far, indeed, as to invade the common province of humanity. Why is it necessary to say at this time that with the safeguards we have around us, with not alone the absolutely stringent penalty under the espionage law, but with the power of the Government to open, examine, and suppress mail matter as well—why is it necessary to say to all of the people of the United States, to all our population that has come to us even from the countries with which we are at war, many of them as loyal as our native-born citizens, that if one of them deposits a letter in a mail box here to his mother in some place in Germany he is guilty of a crime and shall be punished? Why, wars are not fought alone in the trenches and on the firing line. Wars have become a matter of resources affecting the welfare of young and old. And surely no war should still the dictates of humanity, should take away from an American citizen the desire to know of the safety of his father and mother abroad, possibly aged persons who can in nowise contribute to the success of our foreign foe, and can give them no aid and comfort.

That is precisely the position we are in if the section prevails; that in addition to our present law, which most properly provides a drastic penalty for anyone who transmits or attempts to transmit information prejudicial to our national defense or beneficial to the enemy, we now go on record, if this legislation prevails, and make it a crime for one to deposit a letter to a friend or a relative which has not the slightest connection with any matter of national defense or giving aid to a foreign foe; and I do not think—and I say it with all due regard to those who have brought the bill here—that the time or the occasion is at hand when such drastic rules should be invoked, for in all respects we are amply protected by existing law.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. GARD. Yes.

Mr. MOORE of Pennsylvania. I am impressed with what the gentleman says, and I am sure others in the House are impressed by it from the human side of the question. Suppose some one having relatives over there should want to write abroad. Would he apply to the Secretary of Commerce and lay his case before him? I raised the question a little while ago as to whether the Secretary of State or the Secretary of Commerce would have jurisdiction in a case of that kind. Will the license of the Secretary of Commerce permit one to write abroad if it be shown to the Secretary of Commerce that the writing is harmless?

Mr. GARD. I assume that that would be true, but I do not know. That would be the only object of issuing a license.

Mr. MOORE of Pennsylvania. Of course, the gentleman, not being on the committee, need not answer; but is that the formula with which one would have to comply in order to communicate with a relative on the other side?

Mr. GARD. I do not speak for the committee, not being a member thereof, but I presume the regulations are to be prescribed by the Secretary of Commerce under section 3. The form I know nothing about.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. HULBERT. Mr. Chairman, I send an amendment to the Clerk's desk and ask that it be reported.

The CHAIRMAN. There is already an amendment pending, which will be disposed of first. The question is on agreeing to the amendment offered by the gentleman from Ohio [Mr. Gard].

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. MONTAGUE. A division, Mr. Chairman.

The CHAIRMAN. A division is called for.

The committee divided; and there were—ayes, 30, noes 17.

So the amendment was agreed to.

Mr. HULBERT. Mr. Chairman, I ask that my amendment be reported.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from New York [Mr. Hulbert]

The Clerk read as follows:

Amendment offered by Mr. Hulbert: Page 37, line 19, after the word "enemy," insert:

"Provided, That nothing herein contained shall make unlawful the business of any corporation organized or existing under any State or Territory of the United States or the District of Columbia the stock of which corporation is owned in whole or in part by or for the benefit of an enemy or ally of an enemy: Provided, That such corporation shall not directly or indirectly trade or attempt to trade with, for, or on behalf of, or for the benefit of, an enemy or ally of an enemy, as herein provided: Provided further, That the stock of such corporations shall be under the control of the provisions of this act."

Mr. HULBERT. Mr. Chairman, before the present war broke out practically all of the fur business, which is but one illustration of many others with which I am familiar, was in control of citizens of the German Empire, who had agencies at New York, St. Louis, and other cities throughout the United States, the principal ones, however, being in the two cities that I have indicated. Because of the existence of a state of war many of these various agencies were incorporated

under the laws of the several States, and while the incorporators and directors, and in some cases the officers of these corporations, are American citizens, they represent investments made with money belonging to citizens of the German Empire, to whom either the stock was issued or for whose benefit it was issued and is held by American citizens; and since the war broke out, and as the result of these operations, America has now become the unquestioned center of the fur trade.

Yesterday I propounded a question to the gentleman from Wisconsin [Mr. Esch], who, in reply, said that corporations similarly situated would be permitted to do business in the United States; but, he added:

The officers of those corporations—the president, the secretary, and trustees—will be required under this bill to report to the alien-property custodian the name of every German stockholder or bondholder, as the case may be, and when that is listed with the custodian, then the dividends on the stock or the interest on the bonds will be paid to the custodian or to a depository and put in the Treasury of the United States to be invested by the Secretary of the Treasury in bonds or in certificates of indebtedness. It will not mean that that corporation will cease business.

Now, a gentleman who is very extensively interested in this particular line of commercial activity has conferred with the representative of the Department of Justice, and they do not seem to be quite clear upon the exposition of the law as it was made by the gentleman from Wisconsin yesterday, with whom, however, I thoroughly agree. And therefore, in order to relieve the doubt upon that point, and to make it possible for corporations organized under the laws of the several States, which corporations are being officered and managed by American citizens, and which are employing American citizens in their daily activities, and which are carrying on business in the United States and wholly with people who are neither enemies nor allies of enemies, I propose this amendment. I might add these very concerns, with the approval of the British Government, are purchasing furs from Australian and Canadian concerns, and I can not believe we should even leave in doubt a matter upon which the British authorities have not found it necessary, through their experience, to impose such restrictions. I hope that the amendment will prevail.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. ESCH. Is this the amendment suggested by Mr. Heermance?

Mr. HULBERT. Yes. I have added to that amendment that the stock of such corporations shall be subject to the control of this act.

Mr. ESCH. So far as I am concerned, we have no objection to the Heermance amendment as printed as part of the hearings. I am not sure as to the last part of the stock provision.

Mr. HULBERT. If the committee objects to the last part of the provision. I will ask unanimous consent to strike it out.

Mr. MONTAGUE. Agreeing with the gentleman from Wisconsin [Mr. Esch]. I would be very glad if you would. The amendment did not occur to me when the gentleman first presented it. On looking at the hearings. I find that that is the amendment, with the exception of the portion which the gentleman from New York suggested to strike out.

The CHAIRMAN. The Clerk will read.

Mr. HULBERT. May I ask, Mr. Chairman, that the Clerk report the last clause of the amendment?

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Provided further, That the stock of such corporation shall be under the control of the provisions of this act.

Mr. HULBERT. In view of the statement made by the gentlemen of the committee. I ask unanimous consent to withdraw from the amendment a clause as read by the clerk, beginning with the words "*Provided further*."

The CHAIRMAN. The gentleman from New York asks unanimous consent to modify his amendment by eliminating the language just read by the Clerk. Is there objection?

There was no objection.

The CHAIRMAN. The question is on the amendment of the gentleman from New York as modified.

Mr. MADDEN. Mr. Chairman, I should like to hear the amendment reported again.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Hulbert: Page 27, line 19, after the word "enemy." insert:

"Provided, That nothing herein contained shall make unlawful the business of any corporation organized and existing under any State or Territory of the United States or the District of Columbia the stock of which corporation is owned in whole or in part by or for the benefit of any enemy or ally of an enemy: *Provided*, That such corporation shall not, directly or indirectly, trade or attempt to trade with, for, or on behalf of, or for the benefit of, an enemy or ally of an enemy as herein provided."

Mr. MANN. Mr. Chairman——

The CHAIRMAN. The Chair will state to the gentleman that all debate has expired by unanimous consent.

Mr. HULBERT. I ask unanimous consent that the gentleman be permitted to proceed for five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the gentleman from Illinois be allowed to proceed for five minutes. Is there objection?

There was no objection.

Mr. MANN. Mr. Chairman, here is a provision of the bill that authorizes trading by a corporation or an individual upon obtaining a license from the Secretary of Commerce. Thereupon the gentleman from New York offers an amendment which takes out from any prohibition to trade a corporation the stock of which is owned in whole or in part by or for the benefit of German citizens. What is the purpose of that? Under the provisions of the section, they could obtain authority to trade by obtaining a license. Why should you give a corporation any right, more than a partnership or an individual, to trade with the enemy? Then, because the stock of the corporation is owned in whole or in part by German citizens, it is proposed to say that you shall not forbid them at all to trade with the enemy. This section relates only to trading with the enemy in some form, and forbids trading with the enemy by anybody unless he gets a license. Now, here is the situation resulting from the amendment of the gentleman from New York: If the stock of a corporation in the United States is owned

wholly by citizens of the United States, then they can not trade with the enemy without obtaining a license; but if a portion of the stock is owned by or for German citizens, then there is no taboo here by this section. What is the purpose of that? Why should you give a corporation in the United States partly owned by Germans a better right to trade with the enemy than you give to a corporation owned wholly by citizens of the United States?

Mr. HULBERT. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. HULBERT. I would call the attention of the gentleman to the fact that the amendment which I have offered provides expressly that those corporations can not trade either with the enemy or with an ally of the enemy. That is the distinction which evidently the gentleman from Illinois has not appreciated.

Mr. MANN. The only purpose of this section is to forbid persons in the United States trading with the enemy. Now the gentleman says nothing in this section shall forbid a corporation owned in whole or in part by Germans from doing certain things, but they shall not trade with the enemy.

Mr. HULBERT. Will the gentleman yield further?

Mr. MANN. Certainly.

Mr. HULBERT. There is not any intention, as I understand it, to forbid any corporation, no matter whether the stock is owned by citizens of the United States or by citizens of the German Empire, from doing business, so long as they do not do business with an enemy or an ally of an enemy. Now, while, as the gentleman from Wisconsin [Mr. Esch] explained yesterday, and as I have said, to my entire satisfaction, there can be no question of the right of a domestic corporation whose stock is owned by foreigners to do business under this section if they make an application for a license. Unfortunately that does not seem to be the opinion of the Department of Justice, and, therefore, in order to meet that situation, I have presented this amendment, which was submitted to the committee. Mr. Clayton J. Heermance, a very distinguished member of the bar in my city, with whom I have been acquainted for a number of years, appeared before the committee and submitted this amendment to them. He gave his testimony in the hearings there. I have no doubt that the committee has given serious consideration to this matter.

I do not think the gentleman in charge of the bill [Mr. Montague] and the gentleman from Wisconsin [Mr. Esch] have acceded to the suggestion contained in this amendment without mature reflection and deliberation; and I think if the gentleman from Illinois—

Mr. MANN. I am trying to get some really mature deliberation and reflection from those gentlemen now.

Mr. HULBERT. If the gentleman from Illinois will get the amendment and read it for himself, he will realize that it is not what he evidently has caught it to mean from the reading by the Clerk.

Mr. MANN. I have heard the amendment read twice, which is not a very satisfactory way of getting at its true meaning; but here is a section of the bill devoted wholly to forbidding trading with the enemy, except under a license from the Secretary of Commerce; and if the gentleman's amendment is what he thinks it is, it has no place in this section. It has no relation to this section.

Mr. HULBERT. May I call the attention of the gentleman again to the amendment?

Mr. ELSTON. I heard the colloquy yesterday between the gentleman from New York [Mr. Hulbert] and the gentleman from Wisconsin [Mr. Esch], and I think the gentleman from Illinois [Mr. Mann] is absolutely correct. The objection that the gentleman from New York made yesterday referred to an explanation of the rights of the custodian, where the custodian would have a right to take over the property owned by aliens in this country, and the gentleman from New York objected to the taking over of alien property in this country owned and operated by domestic corporations.

Mr. HULBERT. I beg the gentleman's pardon. The gentleman is confusing what I said yesterday with what the gentleman from Connecticut [Mr. Hill] said.

The CHAIRMAN. The time of the gentleman from Illinois has expired. The question is on the amendment offered by the gentleman from New York [Mr. Hulbert].

The question was taken; and on a division (demanded by Mr. Hulbert) there were—ayes 7, noes 25.

Accordingly the amendment was rejected.

The Clerk read as follows:

SEC. 5. That the President if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this act so far as they apply to an ally of enemy; and the Secretary of Commerce may, under direction of the President, grant licenses under this act, special or general, to any person or class of persons, if he shall be of opinion that such grant shall be compatible with the safety of the United States and with the successful prosecution of the war, and he may, with the approval of the President, make such rules and regulations not inconsistent with law as may be necessary and proper to carry out the provisions of this act.

Mr. LENROOT. Mr. Chairman, I move to strike out the last word. I would like to inquire as to the construction of this section. It authorizes the Secretary of Commerce to grant licenses; but licenses to do what? The sentence is not completed in that section.

Mr. MONTAGUE. I will say to the gentleman from Wisconsin that I realize the force of his suggestion. With the consent of the committee I would like to have this section passed over until tomorrow.

Mr. MANN. Reserving the right to object, I would like to call the attention of the gentleman from Virginia to another matter in this section. It provides that the President may suspend the act so far as it applies to the allies of the enemy. I take it that it may be very desirable for the President to suspend the act, and it may be that the word "suspend" is sufficiently indicative to say that the act could afterwards be put in force, although I am not sure of it. It is perfectly patent that if it is desirable for the President to suspend the operation of the act as to Turkey, Bulgaria, or Austria, it may later become desirable to put this provision of the act into effect, and that ought to be provided for. The President is not likely to suspend it unless it can afterwards be made effective.

Mr. MONTAGUE. The suggestion of the gentleman is that it should be a temporary suspension?

Mr. MANN. It ought to be worded some way so that the President may suspend and thereafter revoke his suspension. The gentleman asked

that the section be passed over, and I call it to his attention that he may think of it.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that this section be passed over until later in the consideration of the bill. Is there objection?

There was no objection.¹

¹ There is no indication of any further consideration of Section 5 in the House debate.

5. Senate Report

An Act To Define, Regulate, and Punish Trading With the Enemy, and For Other Purposes, Senate Report No. 113, 65th Congress, 1st Session, to accompany H.R. 4960, August 31, 1917

The Committee on Commerce, to whom was recommitted the bill (H.R. 4960) to define, regulate, and punish trading with the enemy, and for other purposes, having had the same under consideration, report it again back with sundry amendments and recommend that the bill as now amended do pass.¹

Your committee devoted more than a month to careful, painstaking consideration of this bill. It spent several days in giving hearings to various interested parties, and to representatives of several departments of the Government. These hearings cover more than two hundred printed pages.

A lucid report was submitted by the House Committee on Interstate and Foreign Commerce, and same is annexed hereto and made a part hereof as Appendix "A."

The purpose of this bill is to mitigate the rules of law which prohibit all intercourse between the citizens of warring nations, and to permit, under careful safeguards and restrictions, certain kinds of business to be carried on. It also provides for the care and administration of the property and property rights of enemies and their allies in this country pending the war. The spirit of the act is to permit such business intercourse as may be beneficial to citizens of this country, under rules and regulations of the President, which will prevent our enemies and their allies from receiving any benefits therefrom until after the war closes, leaving to the courts and to future action of Congress the adjustment of rights and claims arising from such transactions. Under the old rule warring nations did not respect the property rights of their enemies, but a more enlightened opinion prevails at the present time, and it is now thought to be entirely proper to use the property of enemies without confiscating it; also to allow such business as fire insurance, issuance and use of patents, etc., to be carried on with our enemies and their allies, provided that none of the profits arising therefrom shall be sent out of this country until the war ends. The general principles governing the bill are so well stated by Assistant Attorney General Warren, of the Department of Justice (see hearing pp. 130 and 131), that we quote from him as follows:

Trade with the enemy is unlawful under the common law both in England and the United States. (See memorandum of American cases prepared by me and submitted as an appendix to my remarks.) In England it has always been a common-law criminal offense (*Regina v. Castro* (1880), 5 Q. B. D., 490). In the

¹ Senate Report No. 113 presumably supersedes Senate Report No. 111 of the same date, which is identical with the exceptions noted in this and subsequent footnotes. The first paragraph of Senate Report No. 111 reads: "The Committee on Commerce, to whom was referred the bill (H.R. 4960) to define, regulate, and punish trading with the enemy, and for other purposes, having had the same under consideration, report it back with sundry amendments and recommend that the bill as amended do pass."

United States, so far as such trade is criminal, it must be made so by Federal legislation, there being no common law of crimes. Such trade has a civil aspect—being unlawful, the acts of all parties engaging in such trade are void, or their rights and remedies are suspended during the war. It has also a Federal fiscal aspect, in that the United States may cause to be forfeited in the courts all property concerned in the unlawful trade. (See memorandum of law hereto attached.)

The questions of what constitutes trade with the enemy and what constitutes an enemy within the purview of the illegal trade are settled by the decisions of the English and of the American courts. These decisions constitute part of the common law of the two countries. Strictly speaking, they are not founded on international law. They are purely domestic decisions, founded on such view of public policy as the courts of each country decide to adopt, paying attention, however, to the general consensus of other countries as to what shall constitute a wise public policy in dealings affecting outside countries.

It follows that when the legislature of a country enacts a statute relative to trade with the enemy containing provisions differing from the law laid down by the courts, it is not violating or departing from international law. It is simply expressing its views as to the need of change in the domestic law of the country. Each country must decide for itself what it shall regard as unlawful trade with the enemy, and also what persons it shall regard, for the purposes of such trade, as enemy.

Changes in economic, commercial, financial, military, naval, and political conditions may make it highly necessary that doctrines as to trade with the enemy laid down by our courts a century ago should be modified by the legislature either by making them more stringent or less stringent, according to the needs and conditions of the present day. The complexity of modern business demands far greater stringency in certain directions than the old cases decided by the courts provided for. On the other hand, the more enlightened views of the present day as to treatment of enemies makes possible certain relaxation in the old law.

In former days, trade consisted wholly in the actual transfer and transport of commodities. Today a form of trade even more helpful to the enemy consists of transfer of credits and money by letter, cable, or wireless. Hence, while formerly the mere accumulation of enemy property or funds in this country did not assist the enemy materially, so long as it remained here, now with the ready ease by which credits may be transferred and funds used it becomes just as important to prevent an enemy from building up, using, or transferring his credit or credits as from actually transferring physical property. Hence much more rigid supervision or prevention of such transactions becomes necessary.

So also, with the greater ease of intercommunication between countries, it may become necessary to expand the class of persons who, within the purview of unlawful trade with the enemy, shall be deemed "enemy." Even under the old court decisions the term "enemy" (when used in connection with trade with the enemy) was not confined to citizens of the enemy nation; it applied under certain circumstances to neutrals and their business within the enemy country, and even to our own citizens when having business or property in the enemy country. For these reasons a modern trading-with-the-enemy act must define the term "enemy" according to the particular conditions confronting each country so legislating, and likewise must on the same lines define the particular acts which it thinks necessary to forbid as unlawful trade. It was my intent in drafting this bill to make it as little restrictive of American commerce and as liberal toward the enemy private person as was compatible with the safety of the United States and with justice to American interests.

For the general scope of the present bill (H.R. 4960), I refer to a memorandum in the printed hearings before the House committee, pages 24-25, and also to the testimony of Secretary Lansing, Secretary Redfield, and myself, *ibid.*, pages 3-16, 31-44. For previous American trade with the enemy statutes and proclamations, see printed hearings, page 26, and *United States v. Lane* (1868), 8 Wall., 185.

The present bill is less stringent, and designedly so, than the present English act. And it is less stringent than the law of trade with the enemy as laid down by our courts, for it provides for a system of licenses by which any act or business forbidden by the bill may be licensed to be done, if the President shall be of opinion that it can be carried on or done with safety to the United States. The provisions of this bill greatly amplify and make more practical a system of license or permit which was provided for by the Government during the Civil War. The

bill may in some ways interfere with the freedom of American commerce, and it may bear hardly, in places, upon individuals. By this license system, however, we provided a method of relief in individual cases where the relief can be extended without injury to the interests of the country. But it is necessary always to bear in mind that a war can not be carried on without hurting somebody, even, at times, our own citizens. The public good, however, must prevail over private gain. As was said in Bishop v. Jones (28 Texas, 294), there can not be "a war for arms and a peace for commerce."

One of the most important features of the bill is that which provides for the temporary taking over of enemy property, its conservation in the hands of the alien property custodian, and its investment in United States bonds. The investment feature, so far as I know, is an entirely new provision, contained in no previous statute, and in line with modern, lenient policies with reference to private property in time of war. I call attention to Secretary Redfield's characterization of this part of the bill, in the House committee hearings. He said: "I do not know who was the originator of the idea, but whoever was has created something as fine in its way as the return of the Boxer indemnity, because the enemy property is all in our hands to bear its share of our expenses in fighting the enemy, and yet it is safeguarded so that if it be the will of Congress, under urgent conditions, it may be returned to him intact and safeguarded by us during the whole period of the war."

The theory of the bill is that enemy property in this country shall not remain in the hands of the enemy's debtor or agent here; but that, if the President so directs, it shall be temporarily conscripted by the Government to finance the Government through investment in its bonds, and to be paid back to the enemy or otherwise disposed of at the end of the war as Congress shall direct. In other words, we fight the enemy with his own property during the war; but we do not permanently confiscate it. Moreover, this temporary conscription of enemy property is also conservation of enemy property; for it is taken from the hands of debtors or agents, as to whose solvency the enemy would otherwise have to assume the risks, and invested in the safest security in the world—United States bonds—or deposited in Government depositaries.

For convenience reference is herein made to the pages of the printed hearings, at which detailed explanation may be had of the various sections of the bill.

The American judicial authorities on trading with the enemy are collected in a memorandum in the Senate subcommittee hearings, pages 170-175, and are published herein with additions as Appendix B. The English judicial authorities, collected by Assistant Attorney General Warren, are published herein as Appendix C.

The bill is susceptible of division into four portions.

The first portion defines the word "enemy" and prescribes the acts which shall be forbidden and which are made criminal if performed without license.

The second portion provides for a system by which any act otherwise unlawful and criminal may be licensed by the President* if compatible with the safety of the United States and the successful prosecution of the war.

The third portion deals with the conservation and utilization of enemy property during the war.

The fourth portion deals with the entirely separable question of patents.

Taking up the sections in detail:

Section 2 prescribes the classes of persons who shall be deemed within the purview of the term "enemy" for the purposes of trade during time of war and for the purposes of this act. (Hearings, pp. 133-136.)

* Senate Report No. 111 reads, "may be licensed by the Secretary of Commerce."

Briefly speaking, as applied to the present situation, any person residing or doing business within Germany, and any person residing outside the United States and doing business within Germany, and any corporation incorporated within Germany or incorporated within any country (other than the United States) and doing business within Germany are termed "enemy." "Doing business within Germany," of course, means having a branch or agency actively conducting business within that country. The bill does not bring within the term "enemy" a neutral, unless such neutral has a branch of its business within Germany. Nor does the bill term "enemy" a German residing in a neutral country and conducting no part of his business within Germany. In this respect the bill differs from the more extreme provisions of the English law, under which the English "blacklist" was set up. A German residing in the United States is not included in any way within the term "enemy" by the direct operation of the act itself. The act provides, however, that a German residing or doing business anywhere may, if the President shall find the safety of the United States or the successful prosecution of the war so requires, be, by proclamation of the President, included with the term "enemy." A corporation chartered in the United States does not come within the purview of the term "enemy," even if controlled by German stockholders; but such corporation may not transmit dividends or profits out of the United States to its German stockholders and is criminally liable, just as any other citizen of the United States may be, for engaging in an act of trade with the enemy made illegal by the act. (Hearings, p. 189.)

The term "ally of enemy" is defined along similar lines as the definition of the term "enemy."

Section 3 taken in connection with the definition of the words "to trade" in section 2, sets forth the forms of intercourse with the enemy or with the ally of enemy which are made specifically criminal. It is to be noted that this section does not purport and is not intended to be declaratory of every form of intercourse with the enemy which is unlawful at common law. The act specifically provides in section 7 (b) that it shall not be construed to recognize as valid any act which would otherwise have been void at law, unless such act is expressly authorized by the statute. In other words, the mere fact that section 3 fails to make any given form of intercourse with the enemy criminal does not make such intercourse lawful if it is unlawful under the general doctrines of law, as between private individuals and as affecting their civil rights and liabilities. (Hearings, pp. 151-158, 184.)

Any form of trade with the enemy which is made criminal by section 3 may be performed under license from the President³ granted either to the person engaged in the trade or to the enemy person himself. Full provision for licenses to be issued by the President³ are found in section 5. Such authorization of trade under license constitutes relaxation of the rule of international law forbidding trade with the enemy. The right to license such trade, however, has always been recognized, and statutory and executive provisions were made for such licenses during the Civil War in the United States. The present bill contains much more elaborate provisions for such licenses.

Section 3 further contains provisions making it unlawful to transport Germans or their allies into or out of the United States without

³ Senate Report No. 111 reads "the Secretary of Commerce."

license from the President.³ The necessity for this provision is very evident.

Section 3 also makes criminal the transmission or attempted transmission out of or into the United States of letters or other tangible forms of communication except in the regular course of the mail, and also the transmission of letters and all other forms of communication intended for or to be delivered directly or indirectly to the enemy. A provision, however, is made whereby persons who desire to take matter out of the United States other than in the regular course of the mail or who desire to send letters to the enemy may accomplish their purpose, if the same shall be proper, by submitting the letters, etc., to the President³ or to such officers the President may direct and obtaining his consent. At present there is no adequate law on the statute books which prevents the smuggling into or out of this country of mail matter outside of the regular mail service. The lack of any criminal statute on this subject constitutes a great source of danger to this country. (Hearings, pp. 190-192.)

Section 4 (a) contains elaborate provisions to cover the case of branches or agencies of German corporations doing business in this country—insurance, reinsurance, commercial, and otherwise (and also of German ally corporations). One of the purposes of this section is to give the United States Government full control over all enemy and ally of enemy insurance or reinsurance companies, and to safeguard the interests of American companies which, in the past, have had business dealings with them.

These transactions have been in the nature of reinsurances. During the year 1916 the reinsurance premiums written by foreign companies, with branch offices in this country, amounted to \$50,000,000. Of this total, 47 per cent went to Russian and French companies, 11 per cent to neutral companies, and the balance, or 42 per cent, to enemy countries or their allies.

Absolute control over all such companies of enemy nations (and their allies) is vested in the President,³ who is authorized to grant or refuse to grant all license applications emanating from said companies, or their agents, doing business in the United States.

Section 4, in conjunction with section 9, also protects and safeguards those insurance companies of the United States which have existing contracts, entered into prior to the war, with enemy reinsurance companies. The latter, under the proposed act, may be compelled to turn over to the alien-property custodian, an official created by said act, all their assets in the United States.

In such cases the American companies are enabled to replace their contracts elsewhere, those existing with enemy countries being liquidated, upon proper proof of claim, presented to the alien-property custodian, to the Treasurer of the United States, to the President,³ or, upon suit, to the United States courts. American branches of German corporations are given 30 days within which to apply for a license. If the license is refused, any further doing of business in this country by the German corporation will be illegal. Pending the 30 days within which application may be made, and further pending the decision of the President³ on the question of license, insurance com-

panies are allowed to continue to do business under the present provisions of the President's proclamation—that is they may continue their ordinary business, but they may not transmit any funds out of the country or allow any funds to be used as a basis for credits. A German insurance or reinsurance company may not, however, do any marine or war-risk insurance, and provision is made that the President³ shall not have power to license any such marine or war-risk insurance or reinsurance. (Hearings, pp. 99–111, 139–144, 147.)

As to branches of business corporations pending the 30 days and further pending the decision of the President³ as to license, such German branches may continue to do business, but they also may not transmit or transfer any money or property out of the United States or use it for the basis of the establishment of credits. Detailed provisions are made to safeguard American interests in case the President³ refuses a license to a branch of a German insurance company or revokes any license after he shall have granted it. (Hearings, pp. 145–146.)

Section 4 (b) provides that no enemy and no partnership of which he was a member shall assume or use any name other than that by which he or it was ordinarily known at the beginning of the war, except under license from the President.

Section 5 gives the President the power to suspend the provisions of the act in so far as they apply to an ally of enemy, if he shall find it compatible with the interests of this country. The President³ is given power to issue licenses, and by section 5 (b) is further authorized to order the suspension for not more than 30 days of any transaction which he has reason to believe is an enemy transaction, pending investigation by him. (Hearings, pp. 159, 186.)⁴

By section 5 (c) the President⁵ is given broad power to investigate any transactions in foreign exchange, gold or silver exports, and transfers of foreign credits (hearings, pp. 113, 130, 194, 221), and whenever it shall appear to the President⁵ that the export of any gold or silver coin, or bullion, or of any moneys of the United States may result in violation of the provisions of this act, he may withhold such export for a period of not exceeding 90 days pending investigation by him.

Section 6 provides for the general administration of the bill by the President³ and for the appointment of a new official known as the alien property custodian, who shall have charge of all money or property belonging to an enemy or ally of enemy which may be paid or conveyed to him under the provisions of the bill.

The bill next provides for the power of the Government to deal with enemy property so as to conserve and utilize such property found within its jurisdiction so far as practicable, both in the interests of this Government and of the enemy owner. The general provision is made that the Government may require any form of enemy property found within the United States to be paid or conveyed to the alien property custodian, and any person holding enemy property in this

⁴ Senate Report No. 111 has the following additional paragraph at this point:

"In order to prevent any conflict between the powers of the Secretary of the Treasury and those of the Secretary of Commerce relative to banks, it is provided in section 5 (b) that any investigation of a bank shall be made through the Secretary of the Treasury, or the Federal Reserve Board, or with the concurrence of the Secretary of the Treasury, and he must also concur in any licenses issues relative to the export of gold or silver coin or bullion. (Hearings, pp. 113–130, 194, 221.)"

⁵ Senate Report No. 111 reads "the Secretary of the Treasury."

country is given the option, with the consent of the President,³ to transfer such property into the hands of the Government.

The most novel and important feature of this portion of the bill is the requirement that all money and quick assets paid over to the Government shall be invested in United States bonds. So far as known this is an entirely new provision, contained in no previous statute. It is in line, however, with the modern and advanced lenient policy with reference to private property in time of war. By this means, enemy property is temporarily conscripted by the Government to finance the Government through investment in these bonds, and to be paid back to the enemy or otherwise disposed of at the end of the war, as Congress shall direct. In other words, we fight the enemy with his own property during the war but we do not permanently confiscate it. This temporary conscription of enemy property is also conservation of enemy property, for it takes the property from the hands of debtors or agents, as to whose solvency the enemy would otherwise be obliged to assume the risk, and it invests the property in the safest security in the world—bonds of the United States—or deposits it in Government depositories.

Section 7 contains provisions for ascertainment as to enemy property in this country.

Section 7 (a) requires reports from corporations and associations of enemy officers, directors and stockholders. As, however, it is known that much enemy property was transferred after the severing of relations with Germany and prior to the beginning of the war, provision is made that the President³ may require lists of all stock which was owned on February 3, 1917, by any person now defined as an enemy or ally of enemy. This provision is highly necessary in order that investigation may be made as to the bona fide character of these transfers. As to any actual and legal transfer, of course the bill would have no retrospective action. This provision is merely for the purpose of obtaining information.

Further provision is made that any person in this country who holds property belonging to or for an enemy or who owes any debt to an enemy shall report the same to the President,³ and there is a similar provision for a report of money or property held or debt owed on February 3, 1917. (Hearings, pp. 153-157.)

Section 7 (b) contains a provision whereby nothing in this act shall be deemed to render valid any act or transaction constituting trade with or for an enemy performed or engaged in since the beginning of the war and prior to the passage of the act which would have otherwise been void or illegal at law. (Hearings, pp. 157-158, 184.)

In order to prevent evasion of the act by assignments of enemy interests to neutrals, to be collected for the benefit of the enemy, it is provided that no person shall acquire any right or remedy by virtue of any such assignment or conveyance made after the passage of the act, or, unless such assignment or conveyance is made under license as provided in the act. Safeguard is given to American citizens who may have acquired interests under contracts assigned prior to the passage of the act, so that such contracts may be carried out and completed if there is no actual interest of the enemy remaining in such contract. (Hearings, p. 184.)

Provision is also made for payment to American citizens out of German funds in this country where the funds were received prior to the war and the necessity for payment arises out of transactions entered into prior to the war, but such payments are to be made only with the license of the President.³ (Hearings, pp. 47-72.)

Section 7 (c) provides that the President³ may require any enemy property to be paid to the alien property custodian.

Section 7 (d) authorizes any person holding property for an enemy or owing money or property to an enemy to pay or convey the same at his option, with the consent of the President,³ to the alien property custodian. (Hearings, pp. 158-159.)

Section 7 (e) contains provisions giving protection to any person who may have performed any act in pursuance of an order, rule, or regulation made by the President,³ and provides also for acquittances and discharges to any such person paying or conveying property to the alien property custodian.

Section 8 (a) contains provision by which American citizens holding security on enemy property may dispose of such security on notice, presentation, or demand served by him on the alien property custodian, with the same force and effect as if duly served on the enemy personally.

Similarly, American citizens who have contracts with the enemy terminable on notice or presentation or demand may terminate such contracts by such notice, presentation, or demand served on the alien property custodian. (Hearings, pp. 160-161, 185-186.)

Section 8 (b) protects American citizens who may have entered into contracts for the delivery of goods after the ending of the European war and who now find themselves subject to conditions which were not contemplated when they entered into the contracts, namely, the entry of the United States into the war. It is provided that such contracts may be abrogated by notice served on the alien property custodian. (Hearings, pp. 161-165, 178-183.)

Section 8 (c) provides that the statute of limitations shall be suspended on any contract entered into prior to the beginning of the war between a citizen of the United States and a neutral whereby the United States citizen has become liable for the payment of money which is evidenced by an obligation secured by funds or property situated in an enemy country.

Section 9 protects American citizens who have any claim or interest, right or title in or to any money or property which has been paid or conveyed to the alien property custodian. This section is necessary to preserve and protect innocent claimants, notwithstanding the enforced absence of the parties in interest. If the enemy and all other parties claiming interest in his property assent, the President³ may order the property returned or paid over or transferred to the claimant. (Hearings, pp. 148-151.)

If such assent is not obtained, then adequate provision is made for a suit in equity. Such a suit may be instituted at any time before the expiration of six months after the end of the war.

Section 10 relates solely to patents which are placed under control and supervision of the Federal Trade Commission. This section is fully explained in subdivision 111 of the House report, to which

reference is made. Two material amendments were added by the Senate committee, one authorizing the Federal Trade Commission to fix prices when licenses are granted to use a patent, trade-mark, print, label, or copyright, and the other authorizing the Commissioner of Patents to enforce secrecy in regard to any invention which may, in his opinion, be detrimental to the public safety or defense.

Section 11 contains provisions for the preservation of enemy property by governmental agency and in the interest of the enemy himself. The chances of trade in time of war may involve the solvency of debtors or holders of enemy property, but the taking over and custody of the property by the Government gives to the enemy the best possible protection. Not only is the enemy property preserved and protected, but provision is made for its utilization in the interest of this Government. Moneys (including checks and drafts payable on demand) held by the alien property custodian are required to be deposited immediately by him with the Treasurer of the United States, and may be thereupon invested or reinvested by the Secretary of the Treasury in the bonds or certificates of the United States under appropriate rules and regulations. Thereby the enemy property may be utilized to support and promote the success of the war. This investment and reinvestment is not only sound business policy but a just method of auxiliary warfare.

As there may be paid or conveyed to the alien property custodian, in addition to moneys, checks, and drafts payable on demand, much other property, such as stocks, bonds, tangible personal property and otherwise, provision is made vesting the alien property custodian with the power of a common-law trustee in respect to all property, other than money, so that he may be enabled to manage such property and exercise any rights which might be appurtenant thereto. (Hearings, pp. 70-72, 167.) In case of sale, however, of any such property, the proceeds are required to be paid to the Treasurer of the United States.

In order to simplify governmental bookkeeping, provision is made that any money or property required to be paid or conveyed to the alien property custodian shall, on his written order, be so paid or conveyed direct to the Treasurer of the United States.

While the theory on which the bill is drafted is that enemy property shall be protected and utilized, but not confiscated, the ultimate disposition of the enemy property received and held by the Government is left entirely to Congress, and provision is made that after the end of the war enemy claims to such property "shall be settled as Congress shall direct."

Sections 12 and 13 relate to the regulation of clearance of vessels bound for foreign ports, in order that adequate machinery may be provided for the prevention of departure of such vessels in case of cargoes shipped in violation of the provisions of the act.

Section 14 contains appropriations of \$400,000 to be expended for the purpose of carrying out the provisions of the act, and the further sum of \$50,000 to be expended by the Federal Trade Commission for the same purpose.⁶

⁶ In Senate Report No. 111, this paragraph reads as follows:

"Section 14 contains appropriations of \$350,000 for the Secretary of Commerce, \$50,000 for the Federal Trade Commission, and \$50,000 for the Secretary of the Treasury, to be expended for the purpose of carrying out the provisions of the act."

Section 15 provides penalties for the violation of the provisions of the act or any license, rule, or regulation issued thereunder or for failure to comply with any order issued thereunder.

Sections 16 and 17 vest jurisdiction in appropriate courts for carrying out the provisions of the act.

APPENDIX A

H. Rept. No. 85, 65th Cong., 1st sess.

[Omitted]

APPENDIX B

MEMORANDUM OF AMERICAN CASES AND RECENT ENGLISH CASES ON THE LAW OF TRADING WITH THE ENEMY

(By Charles Warren, Assistant Attorney General of the United States)

I.

AMERICAN CASES

(1) *Every species of intercourse with the enemy is illegal. The prohibition is not limited to mere commercial intercourse.*

Johnson, J., in *The Rapid* (1814) (8 Cranch, 155, 162, 163):

"Whether this was a trading in the eye of the prize law such as will subject the property to capture.

"The force of the argument on this point depends upon the terms made use of. If by *trading* in prize law was meant that signification of the term which consists in negotiation or contract, this case would certainly not come under the penalties of the rule. But the object, policy, and spirit of the rule is to cut off all communication or actual locomotive intercourse between individuals of the belligerent States. Negotiation or contract has therefore no necessary connection with the offense. *Intercourse* inconsistent with actual *hostility* is the offense against which the operation of the rule is directed, and by substituting this definition for that of *trading with an enemy* an answer is given to this argument."

And see especially Story, J., in *The Julia* (1814) (8 Cranch, 181, 193, 194, 195):

"Nor is there any difference between direct intercourse between the enemy countries and an intercourse through the medium of a neutral port. The latter is as strictly prohibited as the former."

See also Story, J., in *The Julia* (1813) (1 Gallison, 594, 602, 603):

"* * * It would seem a necessary result of a state of war to suspend all negotiations and intercourse between the subjects of the belligerent nations. By the war every subject is placed in hostility to the adverse party. He is bound by every effort of his own to assist his own government and to counteract the measures of its enemy. Every aid, therefore, by personal communication or by

other intercourse which shall take off the pressure of the war or foster the resources or increase the comforts of the public enemy, is strictly inhibited. No contract is considered as valid between enemies, at least so far as to give them a remedy in the courts of either government, and they have, in the language of the civil law, no ability to sustain a *persona standi in judicio*. The ground upon which a trading with the enemy is prohibited is not the criminal intentions of the parties engaged in it or in the direct and immediate injury to the State. The principle is extracted for a more enlarged policy, which looks to the general interests of the Nation, which may be sacrificed under the temptation of unlimited intercourse or sold by the cupidity of corrupted avarice."

See also *The St. Lawrence* (1814) (8 Cranch, 434); *The Alexander* (1814) (8 Cranch, 169); *The Rugen* (1816) (1 Wheaton, 62); *United States v. Barber* (1815) (9 Cranch, 243); *United States v. Sheldon* (1817) (2 Wheaton, 119).

Story, J., in *The Liverpool Packet* (1813) (1 Gallison, 512, 521, 522):

"I look back upon that decision (*The Julia*) without regret, and after much subsequent reflection can not doubt that it has a perfect foundation in the principles of public law. To the many authorities there stated I might have added the pointed language of Sir W. Scott, in the *Jonge Pieter* (4 Rob., 79), that 'without the license of the government *no communication, direct or indirect*, can be carried on with the enemy,' and the rule strongly illustrative of the principle, which is acknowledged as early as the yearbooks and has received sanction down to the present times, that every contract and engagement made with the enemy pending war is utterly void."

The Lord Wellington (1814) (2 Gallison, 102).

The case of *United States v. Barker* (1820, Circ. Ct. N.Y.) (1 Paine, 156), constitutes a departure from the general rule.

The rigid rule was reaffirmed in *Scholefield v. Eichelberger* (1883) (7 Pet., 586, 593):

"The doctrine is not at this day to be questioned; that during a state of hostility the citizens of the hostile States are incapable of contracting with each other. For near 20 years this has been acknowledged as the settled doctrine of this court, and in a case which proves it to be a rule of very general and rigid application (*The Rapid*). * * * The question has never yet been examined whether a contract for necessities, or even for money to enable the individual to get home, would not be enforced, and analogies familiar to the law as well as the influence of the general rule in international law, that the severities of war are to be diminished by all safe and practical means, might be appealed to in support of such an exception. But at present it may be safely affirmed that there is no recognized exception but permission of a State to its own citizen, which is also implied in any treaty stipulation to that effect entered into by the belligerents."

In *Jecker v. Montgomery* (1855) (18 How., 110, 112, 119):

"The consequence of this state of hostility is that all intercourse and communication between them is unlawful. * * *

"We have seen, by the authorities cited, that *intercourse with the enemy is sufficient cause for personal punishment and for the confisca-*

tion of property; that it is a cause originating in and inflexibly enforced by necessity for guarding the public safety."

(2) *Property engaged in illegal intercourse with the enemy is deemed enemy property and is liable to forfeiture.*

The Sally (1814) (8 Cr., 382, 384):

"By the general law of prize, property engaged in an illegal intercourse with the enemy is deemed enemy property. It is of no consequence whether it belong to an ally or to a citizen; the illegal traffic stamps it with the hostile character, and attaches to it all the penal consequences of enemy ownership."

The Rapid (1814) (8 Cr., 155, 162, 163):

"The law of prize is part of the law of nations. In it a hostile character is attached to trade, independently of the character of the trader who pursues or directs it. Condemnation to the use of the captor is equally the fate of the property of the belligerent and of the property found engaged in antineutral trade. But a citizen or ally may be engaged in a hostile trade, and thereby involve his property in the fate of those in whose cause he embarks.

"This liability of the property of a citizen to condemnation as prize of war may be likewise accounted for under other considerations. Everything that issues from a hostile country is, *prima facie*, the property of the enemy, and it is incumbent upon the claimant to support the negative of the proposition. But if the claimant be a citizen or an ally at the same time that he makes out his interest, he confesses the commission of an offense which, under a well-known rule of the civil law, deprives him of his right to prosecute his claim. * * *

"Whether, on the breaking out of a war, the citizen has a right to remove to his own country with his property is a question which we conceive does not arise in this case. This claimant certainly has not a right to leave the United States for the purpose of bringing home his property from an enemy country; much less could he claim it as a right to bring into this country goods the importation of which was expressly prohibited."

See also *The Diana* (1814) (2 Gallison, 93, 97); *Jecker v. Montgomery* (1855) (18 How., 110, 114); *The Adula* (1899) (176 U.S., 361, 376), and cases cited.

The Benito Estenger (1900) (176 U.S. 568, 571):

"By the law of prize, property engaged in any illegal intercourse with the enemy is deemed enemy property, whether belonging to an ally or a citizen, as the illegal traffic stamps it with the hostile character and attaches to it all the penal consequences."

See also *The Carlos F. Roses* (1900) (177 U.S., 655).

Betts, J., in *The Crenshaw* (1861), Blachford's Prize Cases, 27:

"Not only is property taken trading with the enemy liable to forfeiture, but it is subject to forfeiture as a prize of war."

Nelson, J., in Charge to Grand Jury (1861) (5 Blatchf., 549; Fed. Cases No. 18271):

"Trade with the enemy * * * according to the law of nations is forbidden and the property engaged in it is liable to forfeiture."

Betts, J., in *The Shark* (1862) (Blatchford's Prize Cases, p. 218).

(3) *All persons doing business with the enemy, whether citizens of the United States or citizens of the other belligerent nation or neutrals, are as to their property to be deemed enemies.*

Prize Cases (1862) (2 Black, 674) :

"But in defining the meaning of the term 'enemies' property,' we will be led into error if we refer to Fleta and Lord Coke for their definition of the word 'enemy.' It is a technical phrase peculiar to prize courts, and depends upon principles of public policy as distinguished from the common law.

"Whether property be liable to capture as 'enemies' property' does not in any manner depend on the personal allegiance of the owner. 'It is the illegal traffic that stamps it "as enemies' property." It is of no consequence whether it belongs to an ally or a citizen (8 Cr., 384.) The owner, *pro hac vice*, is an enemy.' (3 Wash. C.C.R., 183.)

"The produce of the soil of the hostile territory, as well as other property engaged in the commerce of the hostile power, as the source of its wealth and strength, are always regarded as legitimate prize, without regard to the domicile of the owner, and much more so if he reside and trade within their territory."

The Flying Scud (1867) (6 Wall., 263, 266) :

"Although they are Mexican citizens, yet being established in business in the enemies' country, must be regarded according to settled principles of prize law, as enemies, and their cotton as enemies' property."

See *Juragua Iron Co. v. United States* (1909) (212 U.S., 297, 305, 306) :

"Cuba, being a part of Spain, was enemy's country, and all persons, whatever their nationality, who resided there were, pending such war, to be deemed enemies of the United States and of all its people. The plaintiff, though an American corporation, doing business in Cuba, was, during the war with Spain, to be deemed an enemy to the United States with respect to its property found and then used in that country, and such property could be regarded as enemy's property, liable to be seized and confiscated by the United States in the progress of the war then being prosecuted."

So in *Young v. United States* (1877) (97 U.S., 39, 60) :

"All property within enemy territory is in law enemy property just as all persons in the same territory are enemies."

30 Hogsheads of Sugar *v. Boyle* (1815) (9 Cranch, 191).

The Sarah Starr (1861) (Blatchford's Prize Cases, 74, 76) :

"* * * Loyal citizens or neutrals who * * * have a mercantile domicile in an enemy country are regarded in the prize courts in their commercial dealings and transactions there as enemies in relation to vessels and cargoes owned by them and captured at sea. * * *

"The American authorities are equally explicit that a neutral, even enjoying the privilege of consul, domiciled and trading in a belligerent country, is, in war, deemed a belligerent, and his acts are clothed with the character of one of its subjects; and he can neither hold title to property acquired in such country during war, nor confer it upon others, against the interests imparted, by capture at sea, to adversary belligerents."

The Mary Clinton (1863) (Blatchford's Price Cases, p. 560).

See also *The Venus* (1814) (8 Cranch, 253); *The Vowles* (1814) (ibid., 348); *The Frances* (1814) (ibid., 351); *Livingston v. Maryland Ins. Co.*, (1813) (7 Cranch, 542); *U. S. v. Guillem* (1850) (11 How., 50); *The William Bagaley* (1866) (5 Wall., 377); *Miller v. U.S.* (1870) (11 Wall., 268).

(4) *In general, during war, contracts with, or powers of attorney or agency from, the enemy executed after outbreak of war are illegal and void; contracts entered into with the enemy prior to the war are either suspended or are absolutely terminated; partnerships with an enemy are dissolved; powers of attorney from the enemy, with certain exceptions, lapse; payments to the enemy (except to agents in the United States appointed prior to the war and confirmed since the war) are illegal and void; all rights of an enemy to sue in the courts are suspended.*

The William Bagaley (1866) (5 Wall., 377, 405, 407) :

"Public war duly declared or recognized as such by the lawmaking power, imports a prohibition by the sovereign to the subjects or citizens of all commercial intercourse and correspondence with citizens or persons domiciled in the enemy country."

Hanger v. Abbott (1867) (6 Wall., 532, 535) :

"War, when duly declared or recognized as such by the war-making power, imports a prohibition to the subjects or citizens of all commercial intercourse and correspondence with citizens or persons domiciled in the enemy country. Upon this principle of public law it is the established rule in all commercial nations that trading with the enemy, except under a Government license, subjects the property to confiscation or to capture and condemnation.

"Partnership with a foreigner is dissolved by the same event which makes him an alien enemy. * * * Direct consequence of the rule as established in those cases is that as soon as war is commenced all trading, negotiation, communication, and intercourse between the citizens of one of the belligerents with those of the other without the permission of the Government is unlawful. No valid contract, therefore, can be made, nor can any promise arise by implication of law from any transaction with an enemy. Exceptions to the rule are not admitted; and even after the war has terminated the defendant, in an action founded upon a contract made in violation of that prohibition, may set up the illegality of the transaction as a defense. Various attempts, says Mr. Wheaton, have been made to evade the operation of the rule and to escape its penalties, but they have all been defeated by its inflexible rigor."

Coppell v. Hall (1868) (7 Wall., 542, 554, 557, 558) :

"When international wars exist all commerce between the countries of the belligerents, unless permitted, is contrary to public policy, and all contracts growing out of such commerce are illegal. Such wars are regarded not as wars of the governments only, but of all the inhabitants of their respective countries. The sovereign may license trade, but insofar as it is done it is a suspension of war and a return to the condition of peace. It is said there cannot be, at the same time, war for arms and peace for commerce. The sanction of the sovereign is indispensable for trade. A state of war *ipso facto* forbids it. The government only can relax the rigor of the rule. * * *

"The payment of money by a subject of one of the belligerents, in the country of another, is condemned, and all contracts and securities looking to that end are illegal and void. * * *

"In *Griswold v. Waddington* (16 Johnson, 459, 460), Kent, C. J., said: 'The law had put the sting of disability into every kind of voluntary communication and contract with an enemy which is made without the special permission of the Government. There is wisdom and policy, patriotism and safety in this principle, and every relaxation of it tends to corrupt the allegiance of the subject and to prolong the calamities of war.'"

Miller v. United States (1870) (11 Wall., 268, 305, 306) :

"It is immaterial to it whether the owner be an alien or a friend, or even a citizen or subject of the power that attempts to appropriate the property. In either case the property may be liable to confiscation under the rules of war. It is certainly enough to warrant the exercise of this belligerent right that the owner be a resident of the enemy's country, no matter what his nationality. The whole doctrine of confiscation is built upon the foundation that it is an instrument of coercion, which, by depriving an enemy of property within reach of his power, whether within his territory or without it, impairs his ability to resist the confiscating government, while at the same time it furnishes to that government means for carrying on the war. Hence any property which the enemy can use, either by actual appropriation or by the exercise of control over its owner, or which the adherents of the enemy have the power of devoting to the enemy's use, is a proper subject of confiscation."

United States v. Lapene (1873) (17 Wall., 601, 602) :

"All commercial contracts with the subjects or in the territory of the enemy, whether made directly by one in person or indirectly through an agent who is neutral are illegal and void * * *. No property passes and no rights are acquired under such contracts."

And see also *Mrs. Alexander's Cotton* (1864) (2 Wall., 404) ; *The Ouachita Cotton* (1867) (1 Wall., 521) ; *United States v. Lane* (1868) (8 Wall., 185, 195) ; *Dean v. Nelson* (1869) (10 Wall., 158) ; *Lasere v. Rochereau* (1873) (17 Wall., 437) ; *Day v. Micou* (1873) (18 Wall., 156) ; *Mitchell v. United States* (1874) (21 Wall., 350) ; *Fretz v. Stover* (1874) (22 Wall., 198) ; *Mathews v. McStea* (1870) (91 U.S., 7, 9, 10) ; *Desmare v. United States* (1876) (93 U.S., 605, 612) ; *Pike v. Wassell* (1876) (94 U.S., 711) ; *Conrad v. Waples* (1877) (96 U.S. 279, 286) ; *Burbank v. Conrad* (1877) (96 U.S., 291) ; *United States v. Pacific R.R.* (1887) (120 U.S. 227, 233) ; *Briggs v. United States* (1892) (143 U.S., 346, 353) ; *Nelson, J.*, dissenting in *Prize Cases* (1862) (2 Black, 635, 687)

See also *Kershaw v. Kelsey* (1868) (100 Mass., 561, 672) ; *Trotter on Contract During War* ; *Page on War and Alien Enemies*.

(5) *Effect of war on contracts previously entered into with the enemy.*

Hanger v. Abbott (1867) (6 Wall., 532, 536) :

"Executory contracts also with an alien enemy, or even with a neutral, if they cannot be performed except in the way of commercial intercourse with the enemy, are dissolved by the declaration of war, which operates for that purpose with a force equivalent to an act of Congress.

"In former times the right to confiscate debts was admitted as an acknowledged doctrine of the law of nations, and in strictness it may still be said to exist, but it may well be considered as a naked and impolitic right, condemned by the enlightened conscience and judgment of modern times. Better opinion is that executed contracts, such as the debt in this case, although existing prior to the war, are not annulled or extinguished, but the remedy is only suspended, which is a necessary conclusion, on account of the inability of an alien enemy to sue or to sustain, in the language of the civilian, *a persona standi in judicio*."

What contracts are merely suspended and what are terminated by a state of war is considered in *New York Ins. Co. v. Statham* (1876) (93 U.S., 24, 31, 32, 33, 35) :

"The case, therefore, is one in which time is material and of the essence of the contract. * * *

"But the court below bases its decision on the assumption that, when performance of the condition becomes illegal in consequence of the prevalence of public war, it is excused, and forfeiture does not ensue. It supposes the contract to have been suspended during the war, and to have revived with all its force when the war ended. Such a suspension and revival do take place in the case of ordinary debts. But have they ever been known to take place in the case of executory contracts in which time is material? * * *

"The truth is that the doctrine of the revival of contracts suspended during the war is one based on considerations of equity and justice, and cannot be invoked to revive a contract which it would be unjust or inequitable to revive.

"In the case of life insurance, besides the materiality of time in the performance of the contract, another strong reason exists why the policy should not be revived. The parties do not stand on equal ground in reference to such a revival. It would operate most unjustly against the company. * * *

"We are of opinion, therefore, that an action cannot be maintained for the amount assured on a policy of life insurance forfeited, like those in question, by nonpayment of the premium, even though the payment was prevented by the existence of the war. * * *

"* * * Failure being caused by a public war, without the fault of the assured, they are entitled *exaquo et bono* to recover the equitable value of the policies with interest from the close of the war."

The William Bagaley (1866) (5 Wall., 377, 407) :

"* * * Executory contracts with an alien enemy, or even with a neutral, if they can not be performed except in the way of commercial intercourse with the enemy, are *ipso facto* dissolved by the declaration of war, which operates to that end and for that purpose with a force equivalent to that of an act of Congress."

See also *Gates v. Goodloe* (1879) (101 U.S. 612, 619-621) ; *Lamar v. Micou* (1884) (112 U.S. 452, 464) ; *United States v. Dietrich* (1908) (126 Fed., 671, 674).

See also *Griswold v. Waddington* (1819) (10 Johns. 438) ; *Abel v. Insurance Co.* (1881) (18 W. Va., 406, 438) ; *Moore's International Law Digest*, volume 10, page 244.

(6) *As to the effect of war on payment of interest.*

See *Trotter on Contract During War* (supplement), p. 61 ; *Trotter on Contract During War*, p. 49.

See also *Brown v. Hiatts* (1872) (15 Wall., 177, 185); *Hoare v. Allen* (1789) (2 Dallas, 102); *Foxcroft v. Nagle* (1791) (2 Dallas, 182); *Conn. v. Penn.* (1818) (1 Peters C. C., 496, 524); *Ward v. Smith* (1868) (7 Wall., 447, 452); *Moore, Dig. Int. Law* (vol. 7, p. 252).

See also statement in 22 Cyc., 1562, and 30 American and English Ency. Law (2d ed.), p. 8. (The statements contained in these last two references do not seem to be in entire accord with the Supreme Court decisions.)

(7) *As to the effect of war on payments to agents of the enemy, and upon appointment of agents, and upon acts performed under power of attorney granted by the enemy prior to war.*

Conn. v. Penn. (1818, Circ. Ct. Penn.) (1 Peters C. C., 496, 527, 528); *United States v. Grossmeyer* (1869) (9 Wall., 72, 73); *Ward v. Smith* (1868) (7 Wall., 447); *University v. Finch* (1873) (18 Wall., 106); *Insurance Co. v. Davis* (1877) (95 U.S., 425, 429); *Williams v. Paine* (1897) (169 U.S., 55, 70, 71).

(8) *As to the power to sue in the courts.*

See *Hanger v. Abbott* (1867) (6 Wall., 532, 536, 542); *Caperton v. Bowyer* (1871) (14 Wall., 216, 236); *Masterson v. Howard* (1873) (18 Wall., 99, 105).

An alien enemy may be sued in the courts of the United States, though he has no right to sue. *McVeigh v. United States* (1870) (11 Wall., 259); *University v. Finch* (1873) (18 Wall., 106, 111).

(9) *As to power of the Government to license trade with the enemy.*

See especially *United States v. Lane* (1868) (8 Wall., 185, 195); *Hamilton v. Dillin* (1874) (21 Wall., 73, 97):

"* * * The power of the Government to impose such conditions upon commercial intercourse with an enemy in time of war as it sees fit is undoubted. It is a power which every other government in the world claims and exercises and which belongs to the Government of the United States as incident to the power to declare war and to carry it to a successful termination."

(10) *As to effect of war on statutes of limitation.*

See *Stewart v. Kahn* (1870) (11 Wall., 493); *United States v. Wiley* (1870) (11 Wall., 508); *The Protector* (1869) (9 Wall., 687); *Hanger v. Abbott* (1867) (6 Wall., 532).

(11) *As to rights of alien enemies resident in the United States.*

See *Clarke v. Morey* (1813) (10 Johns, 69); *Seymour v. Bailey* (1872) (66 Ill., 288); *Princess v. Moffett* (1914) (W. N., 379); *Volkil v. Governors* (1914) (2 I. R., 542); *Forrestier v. Bordman* (1839) (1 Story, 43); *Hallet v. Jenks* (1805) (3 Cranch, 210); *Brown v. United States* (1814) (8 Cranch, 110); *Case of Fries* (1799) (9 Fed. Cases No. 5126, pp. 830-832); *Lockington v. Smith* (1819) (1 Peters Circ. Ct., 466, 472); *In re Lockington*, *Brightly, N. Dak. (Pa.)*, 269; Revised Statutes, sections 4067-4070; President's Proclamation of April 6, 1917, as to alien enemies.

II.

ENGLISH CASES DURING THE PRESENT EUROPEAN WAR

A. *How far under the English Law English corporations controlled by German stockholders are to be regarded as enemy.*

Amorduct Manufacturing Co. v. Debries & Co. (84 L. J. (K. B.) 586; 112 L. T. 131; 31 T. L. R. 69; 59 S. J. 91); *Rubber Co. v. Daimler Co.* (C. A. (1915) 1 K. B. 893; 84 L. J. K. B. 926; 20 Com. Cas. 209; (1915) W. N. 44; 59 S. J. 232); *Daimler Co. v. The Continental Tyre & Rubber Co.* (H. L. (E) (1916) 2 A. C. 307; 85 L. J. (K. B.) 1333; 114 L. T. 1049; (1916) W. N. 269; 22 Com Cas. 32; 32 T. L. R. 624; 60 S. J. 602); *In re Hilches Ex parte Muhesa Rubber Plantations (Ltd.)* (C. A. (1917) 1 K. B. 48; 86 L. J. (K. B.) 204; (1916) H. B. R. 160; 115 L. T. 490; 33 T. L. R. 28). See also *Societe Anonyme Belge des Mines d' Aljustrel v. Anglo-Belgian Agency* (July 30, 1915) (31 T. L. R. 624).

B. What constitutes trading with the enemy?

Moss v. Donohoe (J. C. 32 T. L. R. 343). It is trading with the enemy to order from an American company with a branch in Rotterdam gin which the defendant knew was sent by such branch to Hamburg, Germany, for bottling.

The Panariellos (85 L. J. (P.) 112; 114 L. T. 670; 32 T. L. R. 459; 60 S. J. 427). A British subject dispatched goods after the outbreak of war and with knowledge of it from a foreign port for delivery as directed by an enemy firm and for their benefit.

Held, that this constituted trading with the enemy and the goods were forfeit.

Stephen M. Weld & Co. v. Fruhling Goshen (1916) (W. N. 187; 32 T. L. R. 469). The plaintiffs were partners in a German firm and a draft for a part of the profits of the German firm was drawn and accepted before war began by the defendants. The draft was paid over to the plaintiffs, an American firm, after war was declared and the defendants refused payment.

Judgment for the defendants, it being a transfer on behalf of an enemy.

In re Aramayo Francke Mines (Ltd.) (C. A. (1917) 1 Ch. 451; 86 L. J. (Ch.) 225; 116 L. T. 54; (1917) W. N. 36; 33 T. L. R. 176). When a corporation incorporated in England and doing business in Bolivia for the benefit of the allies attempts, in order to avoid taxes, to transfer the assets to a corporation incorporated in Switzerland, the court held that an order should be made appointing a controller under the trading with the enemy act to prohibit that action.

C. What constitutes trading for the benefit of the enemy?

Rex v. Kupfer (1915) (2 K. B. 321). Kupfer in England made payments to an English bank to be transmitted to a Dutch house to which it was proved Kupfer had been indebted before the war.

Held, this was a payment for the benefit of the enemy.

D. Trading with branches of enemy concerns in allied territory.

Wolf v. Carr, Parker & Co. (Apr. 29, 1915) (31 T. L. R. 407).

E. Contracts of insurance.

W. L. Ingle v. Mannheim Insurance Co., (1915) (1 K. B. 227; 84 L. J. (K. B.) 491; 112 L. T. 510). A suit may be maintained against a branch of an alien enemy insurance company situated in England on a policy issued before the war. The loss occurred subsequently and a claim to recover such a loss is not a "transaction with the enemy."

F. Appointment of a custodian and distribution of the assets and details of administration under the peculiar provisions of the English trading with the enemy act.

Stevenson & Sons (Ltd.) v. Aktiengesellschaft (C. A. 115 L.T. 594; 33 T. L. R. 84; C. A. (1917) 1 K. B. 842; 32 T. L. R. 84; 61 S. J. 146). The plaintiffs, an English company, were, at the outbreak of the war between England and Germany, sole agents in England for the defendants, a German company. There was also a partnership relation between the two.

Held, that both agency and partnership were terminated at the outbreak of war, and that the determination as to what should be done with that portion of the plaintiff's assets which should belong to the German partners was one for Parliament to determine.

On appeal, *held*, that lower court was right in regard to the agency and partnership and that the enemy partner was entitled to a share of the profits made after the dissolution by the English corporation carrying on the business with the aid of the enemy partners' capital.

In *re Kastner & Co., Auto-Piano Co. v. Kastner & Co.* (1917) (1 Ch., 390; 86 L. J. (Ch.), 235; 116 L. T., 62; (1917) W. N., 15; 33 T. L. R., 149.) *Schmidt v. Van der Veen & Co.* (84 L. J. (K. B.), 861; 112 L. T., 991; 31 T. L. R., 214.) In *re W. Hagelberg Aktiengesellschaft* (1916), 2 Ch., 503; (1916) W. N., 335. In *re Fried Krupp Aktien-Gesellschaft*, (1916) 2 Ch., 194; 114 L. T., 1026; (1916) W. N., 234; 32 T. L. R., 553; (1917) W. N., 171.

(a) *Right of a custodian of a corporation to vote the shares.*

In *re R. Pharaon et Fils*, C. A.; (1916) 1 Ch., 1; 85 L. J. (Ch.), 68; (1915) H. B. R., 232; 113 L. T., 1138; (1915) W. N., 340; 32 T. L. R., 47.

A custodian in whom are vested shares in an English company, formerly belonging to an enemy, may vote the shares as if he was himself the stockholder.

(b) *Right of alien enemy to vote his shares.*

Robson v. Premier Oil & Pipe Line Co., C. A. (1915), 2 Ch. 124; 84 L. J. (Ch.), 629; 118 L. T., 523.

During a state of war an alien enemy may not vote shares held in English company, but right of voting is suspended until after war.

(a) *Right of alien enemy to sue and be sued.*

Mercedes Daimler Motor Co. v. Maudsley Motor Co. (32 R. P. C. 149; (1915) W. N. 54; 31 T. L. R. 178).

Two companies sued as coplaintiffs for patent infringement. Agreement between them provided British company had sole right to sue for infringement and could join alien enemy as coplaintiff on certain notice.

Held, will of the alien enemy not relevant, and British company had right to sue alone.

Turn & Taxis v. Moffett (1915) (1 Ch. 58; 84 L. J. (Ch.) 220; 112 L. T. 114).

An alien enemy's wife residing and duly registered in England may sue upon her individual rights.

Halsey et al. v. Lowenfeld (1915) (W. N. 400; 32 T. L. R. 1).

Held, that an action might be brought against an alien enemy on a lease for rent occurring after commencement of war.

Vokl v. Governors (1914) (2 L. R. 543); *Porter v. Frienderberg et al.*, C. A. (1915) (1 K. B. 857; 84 L. J. K. B. 1001; 20 Com. Cas. 189).

Alien enemy can not sue unless within the realm by license of the King. He may be sued in the King's courts.

J. B. Rombach Baden Clock Co. v. Gent & Son (84 L. J. (K. B.), 1558; 31 T. L. R., 492).

On dissolution of a partnership in England between a naturalized British subject and alien enemies, the former being appointed receiver, it was held the latter could sue for partnership debts which defendants could not withhold as payments to the enemy. *Ex parte Boussmacher* (1806) (13 Ves., 71), and *Mercedes Daimler Motor Co. v. Mandslay Motor Co.* (1915) (31 T. L. R.) followed.

(b) Stay of suit due to outbreak of war.

Robinson & Co. v. Mannheim Continental Insurance Co. (1915) (1 K. B., 155; 84 L. J. (K. B.), 238; 20 Com. Cas., 125); *In re Mary, Duchess of Sutherland, et al. v. Burna et al.* (C. A. 31 L. T. R. 394). Commencement of war does not give right to have action stayed when brought before by British plaintiffs against a German insurance company.

(c) Internment of alien enemy plaintiff.

Schaffenius v. Goldberg (C. A. (1915) W. N. 386; 32 L. T. R., 133). Internment of alien enemy plaintiff did not affect his right to prosecute an action brought by him as registered alien before internment.

(d) Right of appeal.

Porter v. Freudenberg (C. A. (1915), 1 J. B., 857; 84 L. J. (K. B.), 1001; 20 Com. Cas., 189); *Orenstein & Koppel v. Egyptian Phosphate Co.* Ct. Sess. (Sc.) (1915 S. C. 55); *A. A. F. in Berlin Chem. Works v. Levinstein* (C. A. 84 L. J. (Ch.), 842; 32 R. P. C., 140; 112 L. T. R., 963). Alien enemy plaintiff in action commenced before war has no right of appeal which is stayed until conclusion of peace.

Welsbach Light Co. of Australasia (Ltd.) v. Commonwealth of Australia and Attorney General of Australia (J. C. 33 T. L. R., 332). The Attorney General of Australia, acting under the trading with the enemy act, made a declaration that the petitioners were carried on for the benefit of enemies and succeeded in bringing the business to a standstill. They brought action against him denying his allegation and alleging that his act was ultra vires. A demurrer was sustained and the appeal to His Majesty in council denied.

H. All executory contracts become invalid on breaking out of war.

Arnold Karberg & Co. v. Blythe, Green, Jourdan & Co. (C. A. 60 S. J., 156); *Duncan Fox & Co. v. Schrepff & Co.* (C. A. (1915) 3 K. B., 355; 84 L. J. (K. B.), 2206; 20 Com. Cas., 337; 113 L. T., 600); *Grey (Edward) & Co. v. Tolme & Runge* (31 T. L. R., 551); *In re Shipton, Anderson & Co.* (Div. Ct. (1915), 3 K. B., 676; 84 L. J. (K. B.), 2137; (1915) W. N., 304; 31 T. L. R., 598); *Stevenson v. Aktien Gesellschaft* (1916) (1 K. B., 763); *Distington Hematite Iron Co. v. Possehl & Co.* (1916), (1 K. B., 811; 85 L. J. (K. B.), 919; (1916) W. N. 117; 32 T. L. R. 349). A contract between an English company and a German firm provided that the German firm was to take a certain quantity of pig iron yearly, but upon failure to do so would incur no liability other than the loss of control of the output. The vendor agreed that the purchaser should be considered as its sole agent. It was held that as this contract involved a continuing effort on both sides, it was dissolved, and not merely suspended, on the outbreak of war.

Zinc Corporation Ltd. *v.* Hirsh (C.A. (1916), 1 K. B., 541; 85 L. J.; K. B., 565; 21 Com. Cas., 273; 114 L. T., 222; (1916), W. N., 11; 32 T. L. R., 232). The plaintiffs, an English company, made a continuing contract to sell to a German company the entire production of zinc concentrates from their mine in Australia. The contract contained a prohibition against the plaintiffs selling to anyone else, and further enumerated various causes which were stipulated as reasons for a failure to deliver the concentrates. War was not specified as a case of suspension.

It was held that if war was construed as a cause of suspension of delivery, it would result in a construction of the contract as still existing, with the result that the prohibition upon the plaintiffs against selling to any but the German purchaser would be operative, and that therefore it was for the public good to consider the cancellation of the contract as having occurred from the outbreak of the war.

I. Agency.

Tingley *v.* Muller (C. A. (1917), W. N., 180; 116 L. T. 842; 33 T. L. R., 369; 61 S. J., 478). A contract for the sale of land was entered into between an English purchaser and a German resident in England and a deposit paid. The vendor left for Germany, becoming an alien enemy, but left a power of attorney in an English solicitor to complete the sale. *Held*, that the power of attorney was not revoked by the vendor becoming an alien enemy.

Maxwell *v.* Grunhert (C. A., 31; T. L. R., 79). An agent in England of an alien enemy principal is not entitled to bring an action for a decree that he is entitled to called debts and for appointment of a receiver.

J. Goods, wares, and merchandise.

King *v.* Oppenheimer (1915) (2 K. B., 755). *Held*, that certain transfers made from lithograph stones in Germany were goods, wares, and merchandise.

K. Enemy property.

In re Bankfur Handel & Co. (1915) (1 ch., 848; 84 L. J. (Ch.) 435; 113 L. T., 228). A debtor to an alien enemy is not a person who holds or manages for or on behalf of an enemy any property.

L. Contracts of allied subjects.

Kreglinger & Co. *v.* Cohen & Co. (21 T. L. R., 592); Wolf & Sons *v.* Carr et al. (C. A. (1915), W. N., 195; 31 T. L. R., 407). *Held*, that plaintiffs, allied subjects, could not sue for breach of contract made before the war with persons who become alien enemies at outbreak of war and repudiated such contracts as same became illegal at outbreak of war.

6. House Report

To Define Trading With the Enemy, House Report No. 85, 65th Congress,
1st Session, To accompany H.R. 4960, June 21, 1917

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 4960) to define, regulate, and punish trading with the enemy, and for other purposes, having considered the same, report thereon with a recommendation that it pass.

The chief objects of this bill are (1) to recognize and apply concretely, subject to definite modifications, the principle and practice of international law interdicting trade in time of war, and (2) to conserve and utilize upon a basis of practical justice enemy property found within the jurisdiction of the United States.

I.

According to American law one of the immediate consequences of war is to put an end to all commercial relations between citizens or subjects of belligerent nations. Existing dealings must be abruptly discontinued and no new dealings must be entertained or undertaken. In short, commercial intercourse can not be lawfully carried on between citizens of nations at war, except under the express sanction of the Government. This seems clearly the accepted Anglo-American doctrine.

In 1799, Sir William Scott, in the leading case of *The Hoop* (1 Rob. 196), held that—

There exists such a general rule of maritime jurisprudence in this country (Great Britain) by which all trading with the enemy, unless with permission of the sovereign, is interdicted.

This is still the view of Great Britain, as evidenced by a number of cases arising since the beginning of the present world-wide war. (*Hugh Stevenson & Sons (Ltd.) v. Aktien-Gesellschaft* (1916), 1 K. B. 763; *Distington Hematite Iron Co. (Ltd.), v. Possehl* (1916), 1 K. B. 811); and other decisions too numerous to cite.

Perhaps the leading American cases are *The Rapid* (8 Cranch, 155), decided in 1814, and *Insurance Co. v. Davis* (95 U.S. 425), decided in 1877. In the former case an American citizen was forbidden to bring home property which he had purchased in England before the War of 1812, and had deposited on a small British island located near the line between Nova Scotia and the United States; and in the latter case, after reviewing many American decisions, the Supreme Court comprehensively declared—

That war suspends all commercial intercourse between the citizens of two belligerent countries or States, except so far as may be allowed by the sovereign authority, has been so often asserted and explained in this court within the last 15 years, that any further discussion of that proposition would be out of place. As a consequence of this fundamental proposition it must follow that no active business can be maintained, either personally or by correspondence, or through an agent, by the citizens of one belligerent with the citizens of the other.

This view of the law, held by England and America, is in the main shared by continental Europe. See Woolsey, sec. 123; Wheaton, sec. 309; Hall (6th ed.) 383-385; *Kershaw v. Kelsey* (1868), 100 Mass., 561, and other authorities. In sum, war and commerce can not in the nature of things coexist between belligerents. Citizens can not be permitted directly or indirectly to augment the material resources of the enemy by commercial intercourse, and the necessity for this interdiction is more obvious to-day than at any period of the world's history. Never were the industrial, commercial, and financial resources of belligerent nations so vital to the success of war as now. It is not extravagant to affirm that the effective organization of these resources are more likely to determine the result of the present conflict than armies and navies. Therefore, everything reasonably possible should be done to prevent our enemy from reaping the advantages of commercial transactions with the people of the United States. To summarize, the purpose of the bill is not to create new international rules or practices, but to define and mitigate them.

1. The first modification is found in the definition of the word "enemy" (sec. 2, subsec. (a), p. 1), whereby the enemy with whom or with which trade is interdicted is not so much determined by the nationality or allegiance of the individual, association, or corporation as by his or its commercial domicile or residence in enemy territory. The enemy domiciled or residing in the United States is not included in the direct operation of the act itself, but may be reached by subsequent proclamation of the President as authorized by the act. One leading purpose of the bill is to prevent the least practicable restriction upon trade carried on in the United States, and therefore law-abiding persons, whether Germans or neutrals, residing within the United States are not affected by the direct operation of the act, unless the conduct of such persons is of a character so hostile that they should be brought within the terms of the act by the proclamation of the President.

2. The trade or commerce regulated or prohibited is defined in subsections (a), (b), (c), (d), and (e), page 4. This trade covers almost every imaginable transaction, and is forbidden and made unlawful except when allowed under the form of licenses issued by the Secretary of Commerce (p. 4, sec. 3, line 18). This authorization of trading under licenses constitutes the principal modification of the rule of international law forbidding trade between the citizens of belligerents, for the power to grant such licenses, and therefore exemption from the operation of the law, is given by the bill. It should also be added that the prohibitions and limitations applicable to the enemy are in the main also applicable to any ally of the enemy.

3. The forbidden intercourse or commerce extends to the transportation of an enemy or ally of an enemy, and also to the transmission, or attempted transmission, out of the United States of any letter, document, writing, message, picture, diagram, map, device, or other form of communication addressed to an enemy or the ally of an enemy. The necessity of this particular prohibition is too obvious to require explanation.

II.

1. In the order found in the bill the power of the Government to deal with enemy property is next reached (p. 7, sec. 6). It is mani-

fest that the United States should as far as practicable conserve and utilize enemy property found within its jurisdiction. To this end such property must be brought under the control of the Government, to be impounded or used, and to await such disposition at the close of the war as Congress may determine. Therefore, enemy property is required by its owner or its agent to be disclosed, and paid over, conveyed, transferred, or delivered to an agent of the Government known as the "alien property custodian" who is to be appointed by the Secretary of Commerce, with the approval of the President, and at a salary not exceeding \$5,000. The custodian is empowered to receive all money and property in the United States due or belonging to an enemy, or an ally of the enemy, and to hold, administer, and account for the same in accordance with the terms of the act, or under the general direction of the Secretary of Commerce. The Secretary of Commerce is also empowered to employ and fix the compensation of all necessary clerks, investigators, accountants, and employees, who, however, are required to be selected from a list of eligibles obtained in accordance with the civil service law.

2. The act next contains rather comprehensive provisions for the disclosure of enemy property, and for the conveyance or transfer thereof to the custodian, and the Secretary of Commerce is authorized to make all regulations necessary to effectuate such conveyance or transfer. (Sec. 7, subsecs. (a), (b), (c). p. 8.) But should no payment, conveyance or transfer be required by the Secretary of Commerce of a person (who is not an enemy or ally of an enemy) owing money to, or holding property for, an enemy or an ally of an enemy, such person may of his own option pay, convey, or transfer to the custodian such debt or property. (Subsec. (c), p. 9.) Likewise such person holding a mortgage, pledge, or lien may, upon default therein, dispose of the same in accordance with prescribed regulations, thereby having his rights as fully protected as if the procedure had taken place directly and personally with the enemy or alien enemy, (Sec. 8, pp. 9, 10.) Similarly, certain contracts between persons or corporations with an enemy or ally of an enemy may be as effectually terminated by notice served upon the custodian as if served personally upon the enemy or ally of an enemy. (Second paragraph, p. 10.)

3. Again, innocent claimants of property, right, and titles held by the custodian may litigate against the custodian as effectually as the preservation and protection of property and property rights are afforded innocent claimants notwithstanding the enforced absence of enemy parties in interest.

Moreover, the preservation of enemy property by governmental agencies is to the best interest of the enemy subject himself. The fortune of trade in time of war renders precarious the solvency of debtors or holders of property, and the assumption of the debt or custody of property by the Government gives the enemy, or ally of an enemy, the best possible protection.

4. But the preservation and protection of property is not alone provided for: its proper utilization may be a public necessity. Therefore, moneys (including checks and drafts payable on demand), held

by the custodian must be immediately deposited by him with the Treasurer of the United States, and may in turn be invested and re-invested by the Secretary of the Treasury in the bonds or certificates of the United States, under appropriate rules and regulations. Consequently, enemy property may be utilized to support and promote the success of the war against the enemy government. Manifestly it is not wise to permit such property to remain idle in the coffers of the Government; therefore, its investment and reinvestment is not only sound business policy, but a just method of auxiliary warfare, for it is thought that this method of utilizing the moneys and property of the enemy will yield a considerable income, and at the same time prevent the enemy from obtaining the benefits of credits based upon such property. (Sec. 11, p. 17.)

III.

1. The act, unaided by the proclamation of the President, excepts largely from the inhibition of the general law as well as from the act itself, patents and trade-marks. The enemy or ally of an enemy is permitted to obtain in the United States letters patent and registration of trade-marks under the provisions of existing law. But if the war imposes an inability upon the enemy applicant to secure letters patent either during the war or within six months thereafter an extension of nine additional months is made within which letters patent or registration of trade-marks may be perfected, provided, however, that the nation of the enemy applicant shall extend substantially similar privileges to citizens and corporations of the United States, but that the application for the exercise of this privilege by our citizens shall first be approved by the Secretary of Commerce. (Sec. 10, subsecs. (a), (b), p. 12.)

2. The act, however, goes further: Any citizen or corporation of the United States may obtain a license from the Federal Trade Commission to exercise the rights covered by any patent owned by an enemy or alien enemy. The license may be exclusive or nonexclusive, as the commission deems for the public welfare, the applicant's ability and good faith to exercise the privileges of the license being established. The Federal Trade Commission is fully authorized to prescribe the regulations (but not the fee which is fixed by the act) under which the license may be obtained and the conditions under which it may be operated. (Sec. 10, subsec. (c), p. 13.)

3. The licensee shall file annually with the Federal Trade Commission, or oftener if the commission so prescribes, a full statement of the extent of the use and enjoyment of the patent rights acquired under the license, and shall pay to the custodian, or such other officer as the President may direct, 5 percent upon the gross sales of such inventions, or 5 per cent of the value of the use of such inventions to the licensee, as may be determined by the Federal Trade Commission, and the sums so paid shall be covered into the Treasury as a trust fund for such licensee or patentee, and paid therefrom as provided. (Sec. 10, subsec. (d), pp. 14, 15.)

4. The enemy patentee may within a year after the end of the war file a bill in equity against the licensee in the United States district court for the district in which the licensee resides, or, if a corporation,

in which it has its principal place of business, for the recovery from the licensee for all use and enjoyment of the patented invention. The Treasurer of the United States is to be a party to this suit, as is also the alien property custodian, upon whom notice shall be filed within 30 days after the entry of the suit. The amount recovered under the decree, when final, shall be paid on order of the court to the patentee from the 5 per cent fund deposited by the licensee, or so far as such deposit will satisfy the decree, and should there be any balance of said deposit, same shall be repaid to the licensee. If no suit is brought within one year after the end of the war, or no notice is filed as required, then the licensee shall make no further deposits, and all funds theretofore deposited by him shall be repaid to him.

5. If suit is brought as above provided, the court may at any time terminate the license, and restrain the licensee from infringement thereafter, or in case the licensee, prior to the suit, shall have made investment of capital based on the license, may continue the license upon such terms and upon such royalties as the court may determine to be just and reasonable. (Sec. 10, subsec. (f), pp. 15, 16.)

The enemy, or ally of an enemy, has no jurisdiction other than that conferred by this section to the act to maintain suits or actions within the United States, and all powers of attorney heretofore or hereafter granted by an enemy, or ally of an enemy, to any person within the United States, so far as such powers of attorney may be necessary for the performance of acts authorized in this section, shall be valid, otherwise declared void. (Subsec. (h), p. 17.)

IV.

1. Sections 12 and 13, pages 20 and 21, relate to the regulation of clearance of vessels bound for foreign ports, in order that there may be full control of both vessels and cargoes, domestic as well as foreign.

2. An appropriation of a sum not to exceed \$250,000 is contained in the act to be used in the discretion of the Secretary of Commerce for the administration of the provisions of the act during the fiscal year ending June 30, 1918, and for the payment of salaries of all persons employed under the act, together with the necessary expenses for transportation, subsistence, rentals in the District of Columbia, books, periodicals, stationery, miscellaneous supplies, printing, and other necessary expenses.

Section 15, page 22, provides punishment and penalty for the violation of the act. And section 16, pages 22 and 23, confers jurisdiction upon the district courts of the United States to issue such process as may be necessary to enforce provisions of the act, with the right of appeal as provided in sections 128 and 238 of the act of March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary." Jurisdiction of offenses against the act committed in the Philippine Islands and the Canal Zone is given to the several courts of the first instance in the Philippine Islands and the district court of the Canal Zone, and concurrent jurisdiction for like offenses conferred upon the district courts of the United States for offenses against the act committed upon the high seas.

7. Statements of Hon. William G. McAdoo, Secretary of the Treasury, and Milton C. Elliott, Esq., General Counsel, Federal Reserve Board, Before the Senate Committee on Commerce

Trading With the Enemy, Hearing Before the Subcommittee of the Committee on Commerce, United States Senate, 65th Congress, 1st Session, on H.R. 4960, July 27, 1917

The subcommittee reassembled, pursuant to adjournment, at 10 o'clock a.m. in the committee room, Capitol, Senator Joseph E. Ransdell presiding.

Present, Senators Ransdell (chairman), Vardaman, and Fernald.

Present also, Hon. William G. McAdoo, Secretary of the Treasury; Milton C. Elliott, Esq., general counsel, Federal Reserve Board; Mr. F. M. Halstead, Chief of the Division of Customs, Treasury Department; and Hon. Charles Warren, Assistant Attorney General of the United States.

The CHAIRMAN. The committee will first hear Secretary McAdoo.

STATEMENT OF HON. WILLIAM G. McADOO, SECRETARY OF THE TREASURY

Secretary McAdoo. The bill as now drawn gives jurisdiction of all matters comprised in the bill to the Secretary of Commerce; and that, under the general terms of the bill, would also enable him to take jurisdiction of certain matters of finance or certain matters that involve finance. I think that would be extremely unfortunate. There ought to be preserved the distinct jurisdictions of the two departments, as at present. This is more particularly necessary at this time than at any other time in our history.

Senator VARDAMAN. It ought to be preserved at all times, it seems to me.

Secretary McAdoo. Yes. The Secretary of Commerce under the bill as it now stands will have authority to make investigations of banks for the purpose of ascertaining whether or not any of their transactions are going to benefit or might benefit an alien enemy, and that would necessitate his creating a separate organization for the examination or investigation of banks for the purpose of running down suspected transactions. As it stands today, the national banks are subject to examination by the Comptroller of the Currency, who has a sufficient organization for that purpose, they are subject to examination by the Federal Reserve Board through the Federal reserve banks, and they are also subject to examination by the Commissioner of Internal Revenue for the purpose of verifying their income-tax returns. So they are subject probably to a number of different examinations.

If they happen to be State banks or trust companies which are members of the Federal reserve banks, they are again subject to examination by the State banking department, although in that event perhaps the examination of the Comptroller of the Currency would be omitted. I think that banks have got examinations enough as they now stand, and that any new element of this kind injected into the situation would be distinctly unfortunate, not only because it would necessitate new and untried men being brought into that service who are not familiar with bank examinations and the general transactions of the banks, but it is difficult to separate the domestic transactions wholly from the international transactions—the foreign-exchange transactions. So that the examinations would have to be very thorough in analyzing a transaction, and the new elements brought in might cause considerable confusion and a good deal of dissatisfaction. There are established agencies for that purpose, and it is not necessary to create a new organization. In our examinations of banks we can ascertain these things, and ascertain them with less cost and less friction than anybody else possibly could, so that the existing organization ought to be used for that purpose.

Another thing, gentlemen, that I should like to impress upon you, and that is that these vast financial transactions in which the Government is now engaged, relating to domestic finance as well as to international finance, are going to become increasingly complex and difficult as we go along. The questions of international exchange, which have been occasioning me and the Federal Reserve Board a great deal of thought and study and some concern at times, are involved in all of this business. The question of gold exports and gold imports and the preservation of the country's gold supply we have also given much study. The embargoing of gold is a very serious thing, and if somebody had authority to step into this situation who is not familiar with all the complexities of the increased problems of international relationship, and gave directions or took action that would not jibe with the general policies of the Government a very serious effect upon the international relations and the international credit might be produced. I think it would be very hurtful and confusing.

I have felt that it was essential to define clearly the jurisdiction of the two departments in this bill so that all matters relating to finance should continue to be under the direction of the Secretary of the Treasury. The Secretary can exercise these powers through the Federal Reserve Board.

So far as the jurisdiction of the Secretary of Commerce is concerned, I am perfectly willing that all matters of trade, apart from finance itself, should be under him, and I think that the bill as we have modified it defines that jurisdiction in such a way that there will be no difficulty. As to the jurisdiction of the Department of Commerce over commerce and trade, and all that sort of thing, there is not the slightest objection. It is wise, and it is all right.

There is one difficulty which arises about the custody of enemy's property. It is provided that the Secretary of Commerce may appoint a custodian of alien property. I have not sought to effect that, although it is rather awkward to have it placed there; on the whole,

I think it had better remain there, and the Secretary of Commerce have authority to appoint the custodian.

I imagine, however, that that custodian is going to find himself in possession of more money and securities than of any other kind of property, as the result of the administration of this act. The money, of course, would be turned over to the Treasury, as the bill is now drawn, to be invested in Government bonds until the determination of the status, after the war is over.

As to securities, for instance, bonds or stocks or things of that kind, the bill as it now stands, even under the amendments that we propose, leaves custody in the Department of Commerce. I think our amendments might be changed so as to require all such securities—anything relating to financial matters or money—to be turned over to the Treasury Department. I am inclined to think that all such securities should be turned over to the Treasury Department with discretion in the Secretary of the Treasury to sell such securities and invest the funds in Government bonds. But I do not insist on that.

The CHAIRMAN. Could you not state briefly what changes you think should be made in the bill and what jurisdiction should be given to your department and what to the Department of Commerce? You have stated practically what functions under this bill come under the Department of Commerce as it is now drawn.

Secretary McADOO. I am submitting to you a draft of the bill containing the proposed changes or amendments. I was only giving the reasons generally for these amendments.

The CHAIRMAN. Yes; but I can understand better if I have in mind in advance what you are proposing, than by having an explanation of what you propose.

Senator VARDAMAN. If you will pardon the suggestion, will you not take the bill and read the amendments into the record, stating where they should go, so that we may have them before us in the printed hearing?

Secretary McADOO. Yes. I only wanted to give you at the outset an explanation of the fundamentals of the matter, and then I was coming down to the specific amendments.

The CHAIRMAN. Yes, sir; that is all right.

Secretary McADOO. I am going to ask Judge Elliott, as he has drafted the amendments, to present them to you.

The CHAIRMAN. Very well, and then in a running way we can ask you for the explanation of the changes, unless you wanted to go on in a general way and lay down some general principles.

Secretary McADOO. I wanted to give you some general information about the problem.

The CHAIRMAN. If you have not finished that, go ahead.

Secretary McADOO. I may say that in the amendments I have proposed here we have enlarged the powers of the Treasury Department in a way that I think is very necessary in the proper administration of the war.

The CHAIRMAN. May I ask if these amendments have been taken up with the Department of Justice and the Department of Commerce?

Secretary McADOO. They have been taken up with the Department of Justice. I may say, further, that I brought this matter to the atten-

tion of the President, yesterday, and he is in entire accord in principle and policy, and it is with his approval that I am here to suggest these changes in the bill. Mr. Elliott, will you present these amendments?

The CHAIRMAN. Will you proceed, Mr. Elliott?

STATEMENT OF MILTON C. ELLIOTT, ESQ., GENERAL COUNSEL, FEDERAL RESERVE BOARD

Mr. ELLIOTT. The most important amendment is embraced in a new section, which I have put in as section 18 so as not to confuse it with the others. It reads as follows [reading]:

SEC. 18. That for the purpose of supervising and controlling foreign exchange and the export of gold or silver coin or bullion or of any moneys of the United States and of discovering and preventing violations of section 3 of this act the Secretary of the Treasury is authorized and empowered, under such regulations as he may prescribe, to examine, supervise, and control all dealings in foreign exchange, transfers of credits in any form (other than credits relating solely to transactions to be executed wholly within the United States), and to supervise and control exports of gold or silver coin or bullion or of any moneys of the United States, and at his discretion to require any person interested in such a transaction to furnish complete information relative thereto, including the production of all books of accounts, contracts, letters, papers, or other memoranda in connection therewith in the custody or control of such person either before or after any export or foreign exchange transaction is completed.

The Secretary of the Treasury is hereby authorized in his discretion to exercise the powers herein and hereby conferred upon him through the Federal Reserve Board, and the Federal Reserve Board or its duly accredited agents shall be authorized to exercise all such powers as may be necessary to carry out the purposes of this act.

Any person who shall willfully neglect or refuse to furnish information or books of accounts, contracts, letters, papers, or other memoranda relating to dealings in foreign exchange, transfers of credits, or exports of gold or silver coin or bullion, or of any moneys of the United States as above described, when so requested by the Secretary of the Treasury or by the Federal Reserve Board, or by a duly accredited agent thereof acting under regulations of the Secretary of the Treasury, shall be deemed to have violated the provisions of this act within the meaning of section 15.

Whenever it shall appear to the Secretary of the Treasury that the export of any gold or silver coin or bullion or of any moneys of the United States or the consummation of any pending transaction in foreign exchange may result in a violation of the provisions of this act, he may cause notice to be served on the parties in interest to withhold such shipment or to suspend the consummation of such transaction, and any party failing or refusing to comply with the terms of such notice shall be deemed to have violated the provisions of this act within the meaning of section 15.

That is the fundamental amendment. The others are more or less incidental. They are necessary in order to make this effective. For instance, it is suggested that section 13 be amended by adding a paragraph to this effect [continuing reading]:

The collector of customs shall in each case report to the Secretary of the Treasury the amount of gold or silver coin or bullion or other moneys of the United States contained in any cargo intended for export. Such report shall include the names and addresses of the consignors and consignees together with any facts known to the collector with reference to such shipment and particularly those which may indicate that such gold or silver coin or bullion or moneys of the United States may be intended for delivery or may be delivered directly or indirectly to an enemy or an ally of an enemy.

That is, of course, to give authority to make preliminary investigations. It is further suggested that section 2 be amended. That sec-

tion, I may say, defines the meaning of terms used in the act. It is proposed to add this definition [continuing reading]:

The words "bank" or "banks," as used herein, shall be held to mean and include national banks, State banks, trust companies, or other banks or banking associations doing business under the laws of the United States or of any State of the United States, and private bankers.

If these amendments are adopted, section 3 should be amended so that the opening paragraph will read [reading]:

That it shall be unlawful for any person in the United States, except with the license of the Secretary of Commerce, or for any banks, except with the license of the Secretary of the Treasury—such licenses to be issued by the Secretary of Commerce or the Secretary of the Treasury in the manner hereinafter provided in section 5—

(a) To trade, or attempt to trade.

And so on.

As it now stands it puts the power of the issuance of licenses in the Secretary of Commerce. This is simply giving the Secretary of the Treasury the right to issue licenses to banks, and the right to the Secretary of Commerce to issue licenses to all others.

Mr. WARREN. Let me see if I understand that. If a bank—which includes the private banker—wanted to do an act that was forbidden by section 3, he would go to the Secretary of the Treasury for a license?

Mr. ELLIOTT. Yes.

Mr. WARREN. And if any other person wanted to do that thing he would go to the Secretary of Commerce. Is that the idea?

Mr. ELLIOTT. Yes; it is to vest in the Secretary of the Treasury control over the banks as such. Carrying out this idea, section 4, as it now stands, reads [reading]:

SEC. 4. That no enemy or ally of enemy and no partnership of which he is a member or was a member at the beginning of the war shall for any purpose assume or use any name other than that by which such enemy or partnership was ordinarily known at the beginning of the war, except under license from the Secretary of Commerce.

It is suggested that a clause be added to read:

or if a private banker, except under license of the Secretary of the Treasury.

Senator FERNALD. Will you read that once more, please?

Mr. ELLIOTT. The section I last read?

Senator FERNALD. Yes.

Mr. ELLIOTT. As amended it will read [reading]:

SEC. 4 That no enemy or ally of enemy and no partnership of which he is a member or was a member at the beginning of the war shall for any purpose assume or use any name other than that by which such enemy or partnership was ordinarily known at the beginning of the war, except under license from the Secretary of Commerce, or if a private banker, except under license of the Secretary of the Treasury.

Senator FERNALD. I see; that is just carrying out the other provision.

Mr. ELLIOTT. Yes. Taking up the next section, section 5, it is suggested that the whole section be changed to read as follows [reading]:

SEC. 5. That the President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this act in whole or in part so far as

they apply to an ally of enemy, and the Secretary of the Treasury may, under direction of the President, grant licenses under this act, special or general, to any bank, and the Secretary of Commerce may, under direction of the President, grant licenses under this act, special or general, to any other person or class of persons, if it shall appear to the Secretary of the Treasury or to the Secretary of Commerce that such grants will be compatible with the safety of the United States and with the successful prosecution of the war, and the Secretary of the Treasury and the Secretary of Commerce, respectively, may, with the approval of the President, make such rules and regulations not inconsistent with law as may be necessary and proper to carry out the provisions of this act.

Section 6, beginning on line 23 on page 8, reads [reading]:

Provided further, That the Secretary of Commerce shall cause a detailed report to be made to Congress on the first day of January of each year, etc.

It is suggested that this should be changed to read [reading]:

Provided further, That the Secretary of the Treasury and the Secretary of Commerce shall cause detailed reports to be made to Congress on the first day of January of each year, etc.

Section 6 provides, among other things, for the appointment of accountants and investigators and other employees, by the Secretary of Commerce. It is suggested that the following proviso be added on page 9 [reading]:

Provided further, That no clerks, investigators, accountants, and other employees selected or appointed as herein provided, shall make an investigation or examination of any bank.

Mr. ELLIOTT. Section 7, subsection (d), as it now reads, provides as follows [reading]:

(d) No person shall be liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the Secretary of Commerce under the authority of this act.

It is suggested that this section be amended to read [reading]:

(d) No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the Secretary of the Treasury or the Secretary of Commerce under the authority of this act.

In the same paragraph, in lines 18, 19, and 20, on page 12, the language is [reading]:

The alien-property custodian and such other persons as the Secretary of Commerce may appoint, etc.

It is suggested that this be changed to read [reading]:

The alien property custodian and such other persons as the Secretary of the Treasury or the Secretary of Commerce may appoint, etc.

At the end of section 7 there should be a provision to read as follows [reading]:

That the custodian of enemy property shall transmit to the Secretary of the Treasury all information reported to or ascertained by him whenever such information relates to or affects transactions engaged in by banks, and the Secretary of the Treasury, acting through the Federal Reserve Board or through his duly accredited representatives or appointees, shall have and exercise all powers with reference to the supervision and control of transactions of banks that are vested in the Secretary of Commerce with reference to other persons, firms, or corporations.

That was made necessary because there is one custodian and the information is reported to him with reference to all stock ownership

and all ownership of property, and that is simply to have him transmit directly to the Secretary of the Treasury all information relating to banks, carrying out the same idea.

With the same end in view, there should be added to section 9, at the end of section 9, on page 18, the following proviso [reading]:

Provided, however, That where any claim filed under authority of this section is made by or on behalf of any bank the powers and duties herein conferred upon the Secretary of Commerce shall be conferred upon and exercised by the Secretary of the Treasury.

That is simply with reference to property that is in the hands of the enemy custodian, and where claims are filed by a third party.

Senator VARDAMAN. Should there not be in this bill a provision that in the event of a conflict of authority between gentlemen the President should designate the one through whom the party should be dealt with?

Mr. WARREN. If I may answer that question, the power that is exercised by either Secretary is with the President, anyhow.

Senator VARDAMAN. That is all right, then.

Secretary McADOO. He would do that anyway. He has the power.

The CHAIRMAN. Will you not summarize just briefly, Judge Elliott, what is the effect of the various amendments you are suggesting to the bill?

Mr. ELLIOTT. Briefly, they are to place under the supervision and control of the Secretary of the Treasury the operations of the bill in so far as they relate to banks, and to leave the supervision and control of the operations of the bill in relation to commerce in the hands of the Secretary of Commerce, in so far as it relates to all other persons, firms, or corporations, the principle of the amendment being that the Secretary of the Treasury, in order to control gold shipments and foreign exchange transactions, shall be permitted in addition to the ordinary investigations that are made now of the banks themselves, to require the production of any books or accounts, or any information that may be necessary to enable him to determine whether such a transaction involves the payment of any money to or intercourse with an enemy of the United States. This is necessary in order to enable him to obtain the necessary preliminary information to carry out the purposes of the amendment.

The other principal change is to direct the collector of customs to report separately any cargoes that contain shipments of gold, in order that the Secretary through these agencies can determine whether they are intended for an enemy or ally of an enemy.

All the other suggested amendments are merely incidental to these two purposes and are to clarify the bill on that point.

The CHAIRMAN. Why do you consider these changes advisable?

Mr. ELLIOTT. To begin with, the information upon which action would ordinarily be based to prevent a foreign exchange transaction with an enemy or shipment of gold to an enemy or ally of an enemy would come through investigations ordinarily made under the supervision of the Secretary of the Treasury or of the Federal Reserve Board.

That is to say, any preliminary information in reference to these matters would be reported either by the examiners of the Federal

Reserve Board or by national bank examiners or by the examiners of the Bureau of Internal Revenue, so that if the bill is left as it stands now the Treasury Department would obtain preliminary information, it would then report this information to the Department of Commerce, and this department would make its independent investigation. If, after making its investigation, it took possession of any property and any part of such property was in the form of money, it would have to turn the money back to the Treasury Department and retain any other property. As the bill now stands the Treasury Department, therefore, which has the more appropriate machinery for controlling gold shipments and foreign exchange transactions, would simply make a preliminary investigation and report the information obtained to an entirely new bureau of the Commerce Department which would have to follow up the investigation by sending its clerks and agencies into the banks to run down these transactions. In many instances the mere fact that an outside agency went into a bank would create a presumption that there was some transaction going on there that did not look as if it was altogether right, and the agents of the Commerce Department would be handicapped in that way, because the mere appearance of its investigators would throw suspicion on that bank. On the other hand, if handled under the Treasury Department, a lot of "leads," as the examiners call them, might be followed up and might not turn out to involve anybody, but all difficulty in the way of creating suspicion would be avoided.

Senator FERNALD. You think there would be much better administration under this definition?

Mr. ELLIOTT. Yes; there would have to be created an entirely new machinery for that work unless it is handled by the Treasury Department directly or through the Federal Reserve Board.

Senator FERNALD. Your suggestions are all intended to facilitate the operation of the bill?

Secretary McADOO. Yes.

Senator FERNALD. Except for the provisions of the additional section?

Secretary McADOO. Yes.

The CHAIRMAN. To preserve the jurisdiction separate of each of the two departments?

Secretary McADOO. One over finance and the other over trade. That is about what it amounts to.

Senator FERNALD. Yes.

Secretary McADOO. There are two other matters here.

The CHAIRMAN. We will be glad to hear you fully.

Secretary McADOO. Section 14 provides that \$250,000 is appropriated for carrying the act into effect. With these changes it would seem to me that it would not be necessary to appropriate so large a sum of money.

The CHAIRMAN. If you will pardon me, the Secretary of Commerce sent Judge Thurman to me yesterday and suggested that that would not be enough; that it would require at least \$350,000.

Secretary McADOO. I would suggest this in view of the established machinery of the Treasury Department. Of course I could not undertake to speak for the Commerce Department at all; whatever the

Secretary of Commerce says about that I would accept at once as being necessary, but I would say that so far as the Treasury Department is concerned I would not ask that an appropriation of more than \$50,000 be made.

The CHAIRMAN. Could you give us an idea about what percentage of this work the Department of Commerce would be relieved of?

Secretary McADOO. I am unable to do so, but I would say that a very large part of this work will be done in the Treasury Department, because after all, I think you are going to find that it is more financial than anything else. I mean the larger part of this work is going to relate to financial transactions.

Senator VARDAMAN. As to the amount appropriated, Congress is going to be in session continuously, probably.

The CHAIRMAN. It is not well to make the appropriation any larger than is necessary.

Senator VARDAMAN. I think \$250,000 is plenty to begin with anyway. I do not suppose you could use that for a good while.

The CHAIRMAN. This, of course, under the bill is what is appropriated for the Department of Commerce alone.

Senator FERNALD. Would you like to have that divided?

Secretary McADOO. I would not like you to cut down the appropriation of the Department of Commerce in any way. I would like you to add \$50,000 for the Treasury Department.

Senator VARDAMAN. But we are not creating any additional work are we? We are simply transferring certain parts of the work, that was heretofore contemplated to be done by the Department of Commerce, to you?

Senator FERNALD. I think we ought to cut down the appropriation to the extent that we transfer that work to the Treasury Department, at least.

Senator VARDAMAN. \$250,000 would be plenty for that purpose, it seems to me.

Senator FERNALD. Oh, yes.

Senator VARDAMAN. It seems to me, if the Secretary's impression or opinion is correct, that the bulk of this work or the larger part of it, is to be done by his department, and if \$50,000 would be sufficient to do that part of it transferred to him, certainly \$200,000 would be sufficient for the Secretary of Commerce, if we relieved him of that part transferred to the Treasury Department; but, of course, you have got to appropriate enough money.

Senator FERNALD. Yes.

Senator VARDAMAN. My idea would be not to make it unnecessarily large, because they cannot possibly use up \$250,000 before Congress meets again in December.

The CHAIRMAN. I was just going to say, if you will pardon me, there, that I do not think we ought to be too close about these things. The Secretary of Commerce says he wants \$350,000. We are dealing with enormous transactions involving this great Nation of ours, and its relations with some of the greatest nations on earth, and if the Secretary of Commerce needs \$350,000 I think we ought to give it to him.

Secretary McADOO. I wish to repeat that so far as I am concerned I would be concluded, so far as the needs of the Secretary of Commerce are concerned, by his own estimates, and I should not speak

of that. Whatever he thinks is necessary to carry on the work of his own department I think he ought to have, if you will permit me to say so.

The CHAIRMAN. Yes.

Secretary McADOO. But the reason I have said that it would involve very little expense on the part of the Treasury Department is that we have this machinery, in large part, and all I have to do is to, perhaps, increase my examiners' force to meet these new duties, because there is an enlargement of work here. I would say that \$50,000 will be ample for the use of the Treasury Department at this time. If we need more we can come back later.

The CHAIRMAN. If we decide to make the amendments and additions that you suggest, I should say that before determining on the amount we should confer with Secretary Redfield.

Secretary McADOO. Oh, of course.

The CHAIRMAN. Let us go on with the other matters you have.

Secretary McADOO. There is one thing I would say. If it appears in this record that I have said the bulk of these transactions would come under the Treasury Department, I should like to correct it. I meant to say a large part. As to what part, I have, of course, no means of determining yet.

There is one other point, and this I have not discussed with the President. This bill as now drawn has rather an anomalous provision, in section 13, on page 28. Lines 4, 5, 6, and 7 I particularly have in view. It is provided here that [reading]—

the collector of customs for the district in which such vessel is located is hereby authorized and empowered, subject to review by the Secretary of Commerce, to refuse clearance to any such vessel, domestic or foreign.

I do not want to revive or revitalize a controversy that has existed between the two departments ever since the Department of Commerce was organized, but I do think it is important for administrative purposes that there shall be a correction in the bill; that there should be a change in the bill about that. Collectors of customs are, of course, under the Treasury Department, and the Secretary of Commerce under existing law undertakes to give instructions direct to collectors of customs without transmitting them through the Secretary of the Treasury.

It has always been an extremely unsatisfactory arrangement and has led, I think, to some inefficiency in administration because the employees of one department who receive independent instructions from another department are never quite certain that the instructions ought always to be obeyed, and they frequently refer to the Secretary of the Treasury to know whether they should carry out those instructions; and then it is not always possible for the Secretary of Commerce to know whether the instructions he has given are fitting into the general instructions that the collectors of customs are receiving from the Treasury Department, and, while I want to cooperate in the most effective possible way with the Secretary of Commerce, as with everybody else, at the same time I think that no man can serve two masters effectively. I think any instructions that the Secretary of Commerce gives to the collectors of customs should be transmitted through the head of the Treasury Department and then there will be no difficulty about it. I may give an illustration.

Since the war began we have been checking up passports in connection with the Secretary of State. The matter I do not believe concerns the Department of Commerce, but some instructions were issued, either formally or informally, to the collectors of customs about passports by the Secretary of Commerce. Now, I think that in a case of that sort, even if the Secretary of Commerce has the authority, the direction should proceed through the head of the department concerned, so that he may compel the employees of that department to enforce those orders properly. You can understand this also, gentlemen, that if a collector of customs gets an instruction from the Department of Commerce independently of the Secretary of the Treasury he naturally feels, "Well, of course, I will execute this order so long as it does not interfere with my other duties, but I owe a first duty, of course, to my own department," and if you jack him up about his failure to enforce the orders of another department given direct in that fashion he will excuse himself by saying, "Well, I was so busy with the work of the Treasury Department that I did not have time to get to this."

Now, if that order goes to him from the head of his own department, it proceeds *pari passu* with every other order he gets from his own department: so that merely for good administration and for the purpose of avoiding conflict, I have felt that we ought to make a slight change in that section, and I would add to section 13 the following words [reading]:

Provided, That all instructions to collectors of customs or other customs officers in the enforcement of the provisions of this act or other provisions of law shall be issued by the Secretary of the Treasury.

That is what we do between the departments with respect to every other thing. If one department wants something done in another department, it proceeds through the head of the department, of course.

The CHAIRMAN. I imagine there is no friction between the two departments in things of that kind?

Secretary McADOO. This has caused friction in some cases.

The CHAIRMAN. I mean, there is no friction if you go to the head of the department and ask that a thing be done?

Secretary McADOO. Not at all; if we can agree that it ought to be done.

The CHAIRMAN. Exactly.

Secretary McADOO. I merely want to get rid of a controversy that arose between the departments years ago, and that grew out of the organic law, before Mr. Redfield or myself came in, because of the issuance of orders by the Department of Commerce direct to collectors of customs instead of through the Secretary of the Treasury, and which has always led to some friction, not between the heads of the departments so much as between subordinates. I am anxious to get rid of that. We shall get the results, if this is done, in the quickest way, and I think in the most effective way.

Now, Mr. Halstead, have you anything to say on that?

Mr. HALSTEAD. I will say that sometimes the Department of Commerce now requests us to issue instructions. They have various bureaus over in that department. Some of these bureaus always ask us to issue instructions and some do not. Even those other bureaus do not seem to have a uniform rule; it seems to depend upon who, exactly, is there.

That causes considerable confusion. Only yesterday our collector of customs at Galveston, having been instructed to issue registers of vessels, refused to do so until he was instructed by the Secretary of the Treasury. That might have been a very important matter. Collectors of customs do a great many things besides the collection of money. Since the war we have been looking after the passports of everybody that went abroad, and we have taken up the passports of incoming persons. Under this export license provision the collectors are instructed to see that every shipper has a license.

Now, the Department of Commerce sends over requests that license be issued. Other bureaus issue instructions with regard to the clearing of vessels, and there is a possibility of friction there, because our collectors do not understand the instructions, or do not know who it is who signed the instructions, or they do not know how to follow them out; or they might not do so. For the sake of efficiency they ought to get all their instructions from one head, just as a regiment of soldiers gets its instructions from its head and not from diverse persons.

Secretary McADOO. It would promote efficiency in the work to have the thing proceed in the regular and orderly way. That is the very purpose in the amendment I have suggested.

The CHAIRMAN. Would there be any reasonable objection that the Secretary of Commerce could urge to this change you suggest?

Secretary McADOO. I do not know of any. The Commerce Department has always stood very strongly on that privilege of instructing collectors of customs direct. I do not know why they are so insistent upon it, because I think it would really promote efficiency and cooperation if they all proceeded through the head of the department. Why, just assume that I was giving instructions to the force of the Attorney General or to the force of the Postmaster General or that of the Department of Commerce without proceeding through the heads of those departments, you can see the confusion that would arise out of it and the difficulty that would come from it. It is merely for good organization.

The CHAIRMAN. The way your amendment is suggested, Mr. Secretary, I presume your department in carrying out the proper requests of the Department of Commerce would be merely performing an administrative function? The discretion would lie entirely or almost entirely with the Department of Commerce?

Secretary McADOO. It would lie with them.

The CHAIRMAN. And you would simply comply with their requests and issue the instructions when they requested them?

Secretary McADOO. Certainly. We do it now frequently, and are glad to do it. The value of proceeding through the head of a department is that the order of the head of the department has unquestioned authority, and it procures instantaneous action. They do not have to telegraph or write and ask if the instructions of the Secretary of Commerce should be carried out, or ask for explanations about it—that is unless the order as transmitted by the Secretary of the Treasury was not clear, and then they might ask for explanation. Those are the only points, gentlemen, that I have in my mind.

Mr. WARREN. You have made that general law, have you not, and not applicable particularly to this statute?

Secretary McADOO. Yes; I made it general, to clear up the question of issuing instructions about anything to collectors of customs.

Mr. WARREN. I wanted to be certain that that was so, because when the espionage bill was drafted, precisely the same provision that appears in section 13 here, appeared in section 5 of title 5 of the espionage act, and in section 3 of title 7, one relating to neutrality, and the other to export control, and when those two sections were drafted they were drafted giving right of appeal to the Secretary of the Treasury upon decisions of collectors of customs to refuse clearance. Then later I know that the Secretary of Commerce was very insistent, and Congress changed those and inserted the words "Secretary of Commerce." I do not think that I should express an opinion on the merit of this particular matter; but I know that there has been difference of opinion as to the question of law and otherwise. I think that if this amendment is to go in at all it would be very wise to have it apply to the present provisions of the espionage bill, as well as to this trading with the enemy bill.

Secretary McADOO. The amendment, as I suggest it, is meant to clear that and make that uniform in all the bills, not merely in the trading with the enemy bill.

Mr. HALSTEAD. Mr. Warren, you have frequently requested our department to issue instructions with regard to ships; and you never had any trouble?

Mr. WARREN. No, sir.

Mr. HALSTEAD. We have done that. We issue instructions, at the request of the Department of Agriculture, about hides and impure seeds, and so on.

The CHAIRMAN. Do you know why the department changed the provision as you drafted it?

Mr. WARREN. We drafted it for the Treasury. But Mr. Thurman and the Secretary of the Department of Commerce submitted a statement showing that a controversy had been going on for a number of years on the subject, arising out of the fact that, when the Department of Commerce was created, the organic act constituting that department transferred from the Treasury Department all matters of clearance. Was not that it, Mr. Secretary?

Secretary McADOO. Yes.

Mr. WARREN. It was something of that kind.

Secretary McADOO. The act was carelessly drawn in this respect. It is a very unfortunate thing. Let me say about these bills, gentlemen, that if I had been in Washington at the time these provisions were put in the espionage act I would have taken the same position that I have taken with respect to this act, but I was not here, and had no opportunity to be heard about it.

Mr. WARREN. I communicated with your department on it and called their attention to the fact that this question had arisen and that I stepped out from under and left the Treasury and the Department of Commerce to settle it.

Secretary McADOO. Of course the head of the department being absent nobody was here to speak for the department with respect to the policy. I was busy with the liberty-bond campaign.

I should like to state with emphasis that there is nothing unfriendly in this suggestion about the Department of Commerce. I have the

friendliest possible attitude about it. I only want to avoid friction and controversy.

The position of the Department of Commerce with respect to the method of issuing instructions to my employees—to the employees of the Treasury Department—is absolutely technical. It stands upon a technical right and not upon any basis of good order, practice, or procedure. It is merely technical. Their position was sustained by a decision of the Attorney General made some years ago upon purely technical grounds.

Senator VARDAMAN. Will you state that over again? I did not catch it.

Secretary McADOO. I say that the position of the Department of Commerce with respect to this right to instruct collectors of customs direct and without proceeding through the head of the Treasury Department rests, in my judgment, upon purely technical grounds, and is not based upon good procedure or good organization. It is a technical right they claim to have under the organic act creating the Department of Commerce. That act transferred certain bureaus, among others the Bureau of Navigation, from the Treasury Department to the Department of Commerce. They can only effect clearances of vessels through the assistance of the collectors of customs.

The CHAIRMAN. I would like to ask Mr. Warren if he knows of any other instance in our Government where the head of one department has assumed under authority of law or custom to give direct instructions to the officials and employees of another department?

Mr. WARREN. I can not cite you any, but I think there are a few isolated cases.

Senator VARDAMAN. But I do not think it a wise practice.

The CHAIRMAN. Now, Mr. Secretary, is there anything else?

Secretary McADOO. I have no other suggestions, gentlemen.

Mr. WARREN. Of course on the question of the policy it would be highly inappropriate for me to say anything about these amendments, but I perhaps might call the attention of the committee to the fact that if they adopt them, it may necessitate a rather more radical change in framing the bill, for this reason. The bill is readily divisible into four parts.

The first part defines the term "enemy" and makes certain acts penal.

The second part provides for a system by which any act, otherwise unlawful, may be licensed by the Secretary of Commerce. Now, that applies not merely to the export of gold or to foreign credit to or for the benefit of an enemy, but to every possible act of "trade" with or for the benefit of an enemy, as defined in the bill.

Then the third part, which is really in a way separable, is the portion of the bill which deals with the conservation and utilization of enemy property during the war. That deals with the property which may be taken over by the alien property custodian, certain forms of property being required to be turned by him into the Treasury and other forms of property retained by him.

The fourth part deals with the entirely separable question of patents, that being a peculiar form of property which is to be dealt with in a separate and particular way.

When the war-trade committee of which I was chairman drafted the bill—the other members of the committee being, as you know, the

Comptroller of the Currency, Hon. John Skelton Williams, Dr. E. E. Pratt of the Bureau of Foreign and Domestic Commerce of the Department of Commerce, and Mr. Lester H. Woolsey, the Solicitor of the State Department—this question of which department should have administration of this bill was, of course, one of the first questions discussed—a question of which I, as representing the Department of Justice, had no particular knowledge, so that the other three gentlemen conducted most of the discussion on that branch of the bill.

Secretary McAdoo. May I interrupt you there, for the purpose of clarification?

Mr. WARREN. Certainly.

Secretary McAdoo. This bill had progressed some ways?

Mr. WARREN. Some ways, before the Comptroller of the Currency came in.

Secretary McAdoo. Before the Comptroller of the Currency came in, and it was referred to me because of a few specific features of the bill, as I was going out of town, I asked the comptroller to confer merely as to those particular features.

Mr. WARREN. He was named as a member of the committee.

Secretary McAdoo. Yes, afterwards; but his function was really a limited one—that was all.

Mr. WARREN. As a result of the discussion, and because of the fact that the administration of the export control act (Title VII of the so-called espionage act of June 15, 1917), which deals with a very analogous subject, was apparently intended to be placed largely under the control of the Secretary of Commerce, it was finally decided by the committee in this first draft of the bill to place the administration of this bill also in the Secretary of Commerce.

Then that draft was submitted to various Cabinet heads, who, after consideration, desired to have a shorter bill; and the bill was returned to the committee. A more concise form of bill was then drafted by us and passed upon by the Cabinet heads and apparently approved. Now, it was realized that many of the functions of the alien-property custodian would be very intimately connected with the Treasury Department, inasmuch as all money and so-called quick assets must be deposited by the alien-property custodian forthwith in the Treasury, and also other forms of property must be deposited by him in depositaries approved by the Secretary of the Treasury—I am now speaking personally, and not for the committee, because I have not had an opportunity to consult with it since I saw these amendments—we decided to place the alien-property custodian under the direction of the Secretary of Commerce chiefly because we did not want to divide responsibilities between two departments.

My personal view is that if these new amendments of the Secretary of the Treasury are adopted it would clarify and simplify the administration of the act very much if by a further amendment the whole bureau of the alien property custodian should be transferred to the Treasury Department. In the first place, I think it would be more economical to do it. Do you not think so, Mr. Secretary?

Secretary McAdoo. I think it would on the whole.

Mr. WARREN. You could utilize many existing—

Secretary McADOO. Agencies.

Mr. WARREN [continuing]. Depositaries and agencies.

Secretary McADOO. Our warehouses and Subtreasuries would be available for storage.

Mr. WARREN. It would operate in this way. Let me take a particular case in point. Supposing you have an alien enemy—and I know at the present moment of many such—who have large deposits in banks, large deposits with private bankers, stocks and bonds with certain brokers, stocks and bonds held by railroad officials, large warehouse accounts and tangible property. Now, under the proposed amendment, so far as the bank deposits are concerned, the Secretary of the Treasury would decide whether he would order those paid over. So far as stocks and tangible property were concerned the Secretary of Commerce would decide whether he would require them to be paid over. They both would be paid over to the alien property custodian, but in the case of the money it would go back into the Treasury, and in the case of the tangible property it would be held by the alien property custodian under the Secretary of Commerce.

The confusion that might result leads me to believe that, if the amendments along the lines suggested by the Secretary of the Treasury are adopted, it would probably be better to go still further, and to take this whole portion of the bill; that is, the portion relating to conservation and utilization of the enemy property, out of the Commerce Department, and put it into the Treasury Department.

Senator VARDAMAN. I understand from your statement, Mr. Warren, that there are certain functions which this custodian will perform that must be under the Secretary of the Treasury?

Mr. WARREN. If these amendments are adopted; yes.

Senator VARDAMAN. But even if they are not adopted, I understand you to say that there are certain functions which the Secretary of the Treasury must perform?

Mr. WARREN. No.

Senator VARDAMAN. Does he turn certain moneys over to him?

Mr. WARREN. Yes; they leave his control entirely.

Secretary McADOO. Yes.

Mr. WARREN. He simply passes them over to the Treasury.

The CHAIRMAN. He is the depositary.

Mr. WARREN. As the bill is drawn, he functions entirely in the Commerce Department. But with the amendments, I can see that there is a possible chance for confusion; and I see no particular reason for retaining him in the Commerce Department. I do not know what the view of the Secretary of Commerce is. I am simply speaking my personal views.

Secretary McADOO. My feeling about the problem is this: If I had had any part in the original construction of the bill, I should have somewhat different views from those I now entertain in that respect; but so much has been done along these lines, that my inclination is to try to harmonize the two.

Senator VARDAMAN. If you will allow me to interrupt you, as a disinterested person who has no interest in the question other than the promoting of the public service, I gather from what I understood

and what Mr. Warren says that if that particular function were under the Treasury Department it could be done more cheaply and with greater facility, and I think where it can be done, to avoid a division of authority, it ought to be done.

Secretary McADOO. Well, on the whole, I am inclined to think that that is true, and if the matter had not progressed so far I would be in favor of different action.

Senator VARDAMAN. It is not a question of power and authority in the matter as between the departments.

Secretary McADOO. Certainly not, so far as I am concerned.

Senator VARDAMAN. But where it could be done under one head, it would promote efficiency.

The CHAIRMAN. As a general proposition, that might be all right, but the House has now passed this bill in this form, and you know we are liable to have a great deal of trouble with the House in regard to any amendments that are made, and do not let us change the whole theory upon which this is based.

Secretary McADOO. You will not have any trouble with these changes that I have suggested.

The CHAIRMAN. With these changes you suggest, probably we will not.

Senator VARDAMAN. I say that on the idea that if this matter was brought to the attention of Mr. Redfield and Mr. McAdoo, that both being desirous of promoting the public service, there would not be any conflict on the floor of the Senate.

Secretary McADOO. I do not think this custodian matter is a very important point, and I think you would expedite the passage of the bill if you did not change it. Let us look at it. If the bill, Mr. Warren, is made with respect to the quick assets, stocks, etc.—

Mr. WARREN. The wording that I used is what the Comptroller of the Currency suggested.

Secretary McADOO. If that money should, when it comes into the custodian's hands as enemy property, simply be turned over to the Treasury Department, there is no difficulty there. That is a sharply defined line. Then, with respect to all other property, suppose he finds that enemy aliens have a lot of wheat stored in a warehouse or cotton in a warehouse or steel of various kinds in warehouses throughout the country, that is very properly within the jurisdiction of the Department of Commerce and may be left to the Department of Commerce; and it seems to me it may be better to define the line there.

The CHAIRMAN. Do you expect to find much other property besides this money and these quick assets?

Secretary McADOO. A great deal of it.

The CHAIRMAN. The custodian will be busy, then?

Secretary McADOO. Yes; and I want to put in just as little changes as possible.

Senator VARDAMAN. It is not a question of putting work upon you?

Secretary McADOO. No.

Senator VARDAMAN. Or taking work from your department. It is a question, with me, of doing that which is best for the public.

Secretary McADOO. Yes; and I have the same desire, Senator.

Senator VARDAMAN. I am sure you have, and I am sure Mr. Redfield has, and I was just thinking, and I still think, that wherever it can be done without a division of authority it would facilitate matters. However, I have not other interest than what I have stated.

Secretary McADOO. I think the situation as I have stated it preserves the logical division in the bill, and there is no trouble about cooperation. Well I am very much obliged to you, gentlemen. I will bid you good day.

8. Statements of Albert Lee Thurman, Solicitor of the Department of Commerce, and Hon. Milton C. Elliott, General Counsel of the Federal Reserve Board, Before the Senate Committee on Commerce

Trading With the Enemy, Hearing Before the Subcommittee of the Committee on Commerce, United States Senate, 65th Congress, 1st Session, on H.R. 4960, August 2, 1917

The subcommittee reassembled, pursuant to adjournment, at 3 o'clock p.m., in the committee room, Capitol, Senator Joseph E. Ransdell presiding.

Present, Senators Ransdell (chairman), Vardaman, and Fernald.

Present also Hon. Charles Warren, Assistant Attorney General of the United States; Hon. Milton C. Elliott, general counsel of the Federal Reserve Board; Albert Lee Thurman, Esq., Solicitor of the Department of Commerce, and Mr. F. M. Halstead, Chief of the Division of Customs of the Treasury Department.

The CHAIRMAN. You may proceed, Mr. Thurman.

**STATEMENT OF ALBERT LEE THURMAN, SOLICITOR OF THE
DEPARTMENT OF COMMERCE—Resumed**

The CHAIRMAN. Mr. Thurman, are you familiar with section 18, the section suggested to be added to the bill by Secretary McAdoo; and, if so, will you please give your understanding of it?

Mr. THURMAN. I have had an opportunity of examining this amendment, Mr. Chairman, and I am very frank to say that I do not understand just what it is intended to cover or just what it is intended to include. It is a matter that it seems to me Judge Elliott could explain—as I understand it was prepared by him—very much better than I could, and I may then have something to say about it hereafter. It does seem to me, however, that in a general way it places exactly the same powers in the Secretary of the Treasury for the enforcement of this bill as it does in the Secretary of Commerce. Ostensibly this section transfers and places the control in the Secretary of the Treasury, for instance, of credits. The Secretary of Commerce, under the provisions of the bill, has the right to grant licenses for trading with an enemy or with an ally of an enemy, as I understand the provisions of the bill. Now, that carries with it, it seems to me, the question of payment. If the Secretary of Commerce is going to prescribe the rules and regulations under which a party may trade with an enemy it would seem that that must necessarily cover the entire transaction, and, therefore, the means of payment. Suppose that this payment is to be made through a bank; then you immediately have the situation where you have the rules and regulations prescribed by the Secretary of Commerce telling a man that he may trade, and then, when

he wants to make payment, he goes to the Secretary of the Treasury and is by him told that he can not complete it. In other words, the effect of this section is to create a double authority or double administrative situation, which ought not to be. I think that the administrative conduct of this bill should be placed either in one department or in the other. I do not believe in having rules and regulations prescribed by both. But, before saying anything further on that—

The CHAIRMAN. You think you would like to have Judge Elliott explain it?

Mr. THURMAN. I think I would like to have him tell what it means before we go any further.

The CHAIRMAN. Then, Judge Elliott, will you explain this section 18, which is very important, and then we can go to the other features introduced by Secretary McAdoo?

STATEMENT OF HON. MILTON C. ELLIOTT, GENERAL COUNSEL OF THE FEDERAL RESERVE BOARD

Mr. ELLIOTT. My understanding of this is that this bill prohibits trading with the enemy, except with the license of the Secretary of Commerce. It is designed, among other things, to prevent the shipment of property to an enemy or to an ally of an enemy, or the payment of money to an enemy or ally of an enemy.

So far as the shipment of property is concerned, if a resident of the United States undertook to ship to an enemy who was a resident of a belligerent country any property, the jurisdiction and control of that shipment would be entirely in the Secretary of Commerce. He could make his investigation and permit the cargo to go forward or have it turned over to the alien property custodian. So far as commodities are concerned, there is no difficulty or any conflict as between the two departments.

But when we come to the payment of money to an alien enemy, instead of gold being shipped direct to the enemy in all probability it would be paid in a roundabout way, through the use of credits.

For example, suppose a resident of the United States wanted to pay money to somebody, we will say, in Spain, who had an agent in Germany. They would not send the money direct by shipment to Spain, but they might go to a bank in the United States and ask that bank to arrange with its correspondent in France, for example, to accept a draft drawn by the man in Spain. The bank in the United States, through its correspondent guaranteeing the draft, would arrange for the discount of that draft, and that draft might be sold and the proceeds used for any purpose that would be inimical to the United States.

The only way you could ever find out about a transaction of that sort would be, when any of the examiners of the Federal Reserve Board should find a bank opening a large line of credit, he would look into that transaction and see for what purpose the credit was opened.

There would be nothing in the record, so far as the shipment of property or money was concerned, that would indicate in any way that a payment had been made; whereas, on the other hand, if you

had access to the banking records, you might find that a bank in the United States was establishing large amounts of credits in France for drafts drawn by somebody in South America or somewhere else, and you might run down that transaction and find out that that was a roundabout way of paying money to an enemy of the United States.

All that this section undertakes to do is to give power to the Secretary of the Treasury, in addition to the powers that he already has to examine banks that are under the jurisdiction of the Treasury Department, to examine State banks and other banking institutions that are not members of the Federal Reserve System. If, in the course of that examination, he finds anything that indicates that the bank may be used as a medium for making these payments, he may then go through and require that bank, or its customer, to open all its papers and show why it was opening the credit and what payments it was making. If it developed that payments were being made for purposes inimical to the United States, he could suspend that transaction.

When it comes to gold, gold might be shipped in a cargo to France. That gold might be going to France to pay one of these acceptances that was accepted by a French bank, a draft drawn by somebody in Spain, in South America, or somewhere else, so that there would be nothing in the shipment of the gold itself to indicate that it was a transaction with an enemy. But if it was sent there to pay a credit that was opened in this roundabout way, the shipment in itself might in effect be a payment to the enemy.

If the bank in New York, for example, should say to its branch correspondent, "You will accept the drafts of John Smith of South America, payable 90 days after sight, for \$10,000, the credit to be drawn against by Bill Jones of Spain, and we will guarantee payment." At the end of the 90 days, when that draft became due, there might be a shipment of gold to France to pay that draft, but the gold would not be going to France to pay any debt we owed France, or for any commodity we bought from France, but going to pay off a credit established by somebody somewhere else; so that the shipment of gold and the handling of exchange transactions are so closely interrelated that it seemed to us that it would be impossible for the Department of Commerce to trace down one of those transactions unless it went into an examination of the banks itself; because 90 per cent of the transactions, I suppose, would be handled by opening these credits rather than by shipping the gold.

Taking up Mr. Thurman's suggestion that there would be conflict: If this power was given to the Secretary of the Treasury, and the Secretary of Commerce had issued a license to trade with the enemy, I do not think that that conflict would actually arise. To illustrate, suppose the Secretary of the Treasury under his authority had examined into a foreign transaction and found that a New York bank had opened a credit which was indirectly for the benefit of an enemy; if it should develop that that credit was opened under a license from the Secretary of Commerce there would not be any question of conflict, it would stand on the same basis as if it had been opened for some one that was not an enemy. In other words, the license would legalize that transaction and put it on the same basis as if it had been legal without the license.

Mr. THURMAN. Not under this section; it would not as you have it written now.

Mr. ELLIOTT. Just at that point I would like Mr. Thurman to call attention to the language that would prohibit it.

Mr. THURMAN. I think the language beginning in line 20, page 49, of the committee print, which reads [reading]:

to examine, supervise, and control all dealings in foreign exchange.

There is an absolute control vested in the Secretary of the Treasury.

Mr. ELLIOTT. Yes.

Mr. THURMAN. And I think under that, under a regulation he issued, he could veto a license that might have been issued by the Secretary of Commerce when it comes to the matter of payment.

Mr. ELLIOTT. That, of course, is a question of construction which it seems to me would be rather forced, because if we accept that as the meaning of this act we would have to go further and say that no foreign exchange transaction could be engaged in, either with an enemy or with a friend or anybody else, except with the permission of the Secretary of the Treasury.

Mr. THURMAN. Let me go further. On page 50, and reading down onto page 51, you will see he has the power not only to withhold shipments, but to suspend the operation of the transaction.

Mr. ELLIOTT. You refer to this language, which is very plain:

Whenever it shall appear to the Secretary of the Treasury that the export of any gold or silver coin or bullion or of any moneys of the United States or the consumption of any pending transaction in foreign exchange may result in violation of the provisions of this act, he may cause notice to be served on the parties in interest to withhold such shipments or to suspend the consummation of such transaction.

And so forth.

If the license has been issued, that license prescribes that anything which is done is not a violation of the provisions of this act: so that if there was a transaction which would be a violation of the provisions of the act, without the license it could not be a violation of the act if the license has been issued, and if it was not a violation of the provisions of the act no license would be necessary.

Mr. THURMAN. If it is perfectly legal, why place the matter in the hands of the Secretary of the Treasury at all, or vice versa?

Mr. ELLIOTT. I do not think I catch your point, just there. Will you please repeat that?

Mr. THURMAN. If the license is regularly issued by the Secretary of Commerce and the transaction is complete up to the point of payment, if that transaction under the license is absolutely valid, then why put it in the hands of the Secretary of the Treasury? Why should he step in at all?

Mr. ELLIOTT. For this reason, if I may interrupt you to add this—

Mr. THURMAN. Yes; I am trying to get this thing clear.

Mr. ELLIOTT. We are all trying to do that. It is to be supposed that if the Secretary exercises the power prescribed under section 18, the great bulk of the transactions which the examiners will run down will prove not to be violations of law. It will be necessary to examine a great many foreign transactions in order to find the few violations of the trading with the enemy act. Now, if in his examination

he finds what might have been a payment to an enemy or ally of an enemy was in fact a payment to an ally of this country or to a resident of this country, no action is necessary. In other words, no violation of the act has occurred. In other words, if he finds that what might have been a violation of the act in the shape of a payment to an enemy is actually a payment made under a license granted by the Secretary of Commerce, then that transaction has exactly the same status as if he had found that it was not a payment to an enemy. In other words, the mere fact that he may find some transactions which on their surface looked as if they were transactions with enemies but were in fact transactions under authority of a license granted by the Secretary of Commerce, ought not to be—

Mr. THURMAN. If he finds an illegal transaction, why not leave it to the department that has administrative control of the bill instead of placing the authority in another department to handle that situation?

Mr. ELLIOTT. I am trying to answer this the best I can. Suppose that he finds that a credit has been opened through the Bank of France, which is really to pay, indirectly, some debt due an enemy; your question is, Why, instead of issuing directions that that transaction should not be consummated, he should not report it to the Secretary of Commerce and let the Secretary of Commerce take such action as may be necessary.

Mr. THURMAN. Or to whichever department the control is placed in.

Mr. ELLIOTT. That brings up to my mind the real point of this, and that is that it would place the immediate control of bank transactions in the hands of the Department of Commerce instead of the Treasury Department.

Mr. THURMAN. How will it do that?

Mr. ELLIOTT. Because, according to your own suggestion, if he should find that this was a foreign exchange transaction which was in violation of law, instead of exercising the powers of the Treasury Department over the bank transaction he would report it to the Department of Commerce and the Department of Commerce would then have to look into that transaction and make its investigation and determine whether or not it was going to prohibit it.

Mr. WARREN. Just the same way as if he reported it to the Department of Justice. That department would then go into the matter and investigate it. I do not quite catch your point on that, Mr. Elliott, because at some point it is either a crime, or it is a crime about to be consummated. Now, if it is a crime it goes to the Department of Justice, and we go into the banks. If it is a crime about to be consummated, which it is desirable to give power to suspend, of course there is no power given in the bill as drafted—there is nothing to give anybody the power—to suspend the transaction, but if it is desirable to give some power to suspend based on information which the Secretary of the Treasury acquires in his investigation, why should that power—why is there any necessary inconsistency in giving that power to the officer who carries out the whole administration of the bill? I am only seeking for light, because I can not see—if the crime is consummated,

the Department of Justice takes the case; we can go in and investigate it.

Mr. ELLIOTT. The section you are discussing is section 18, which gives authority to the Secretary of the Treasury to make this investigation.

Mr. WARREN. And control.

Mr. ELLIOTT. Yes. Now, if I understand your objection—

Mr. WARREN. I am not objecting at all.

Mr. THURMAN. I am not, either. I am just trying to get at it.

Mr. ELLIOTT. If I understand your point, then, there is no objection to the Secretary having this power to make an investigation.

Mr. WARREN. None whatever.

Mr. THURMAN. I think he ought to have it.

Mr. ELLIOTT. But in your view, having made an investigation and having found that a bank is opening credits for an illegal purpose, instead of controlling the situation from that time forward and either reporting it to the Department of Justice for criminal action or further explanation of that transaction, your idea is that all of the information of the Secretary of the Treasury and all the results of his investigation should be turned over to the Secretary of Commerce in order that the Secretary of Commerce should take such action as he thinks necessary.

Mr. THURMAN. In other words, that he revoke the permission or withdraw the license or prevent the transaction.

Mr. ELLIOTT. There may be no question of a license involved whatever.

Mr. WARREN. There may be no question of license.

Mr. ELLIOTT. And in all probability there would not be. Now, to adopt that course with the Treasury Department would be merely to delay for the purpose of enabling the Secretary of Commerce to follow that course.

Mr. WARREN. If it was an illegal proposition it would go to the Department of Justice for such action as might be necessary.

Mr. THURMAN. If it is the other, it is merely to aid and not an adjunct to the Department of Commerce. I do not care whether it is the Department of Commerce or what it is, it is to aid the Department of Commerce in the administration of the act.

Senator VARDAMAN. Can you conceive, Mr. Elliott, a question arising under that section 18 where the jurisdiction of the Secretary of Commerce and the Secretary of the Treasury would conflict; part of the transaction would naturally come under the jurisdiction of the Secretary of Commerce while the other would be under the Secretary of the Treasury under that amendment?

Mr. ELLIOTT. I should not think that any conflict would ever arise under this section.

Senator VARDAMAN. Do you not think that for the smooth and efficient working of the bill—of the law—there ought to be as nearly as possible one supreme head, so as to avoid the possibility of those conflicts?

Mr. ELLIOTT. I do, Senator; and that was the purpose of this amendment, to leave the control of purely financial, banking matters, in the hands of the Treasury Department and to avoid the conflict

which will arise if the Department of Commerce has to exercise any jurisdiction, either by investigation, examination, or otherwise, over the banks and banking associations.

Mr. THURMAN. That is not the purpose of that. We do not want to do that.

Mr. ELLIOTT. That is the whole purpose of this section.

Mr. THURMAN. Let me ask you a question.

Mr. ELLIOTT. Certainly.

Mr. THURMAN. Suppose a transaction is authorized or licensed by the Secretary of Commerce. That transaction will actually require the receipt of goods and the payment therefor?

Mr. ELLIOTT. Yes.

Mr. THURMAN. Now, suppose the American purchaser desires to make the payment through a bank; where does the authority of the Secretary of Commerce stop and where does the authority of the Secretary of the Treasury begin in a transaction of that sort? I think it is all one.

Mr. ELLIOTT. I will answer that in this way, as I attempted to before, but did not make myself clear: If the Secretary of the Treasury under section 18 investigated the transaction and in the process of that investigation he was advised, or found out, that the transaction was being carried on under the license of the Secretary of Commerce, that would make it, so far as he was concerned, a legal transaction, and he would have no jurisdiction to interfere in it.

Mr. THURMAN. I do not think it does, under this section, as written. That is a question of construction, and I simply present that to the committee. I think the section is so broad that the Secretary of the Treasury will not be controlled by the licenses issued by the Secretary of Commerce.

Mr. ELLIOTT. If you will agree with me that an act done under the license of the Secretary of Commerce is not an act done in violation of the provisions of this act, then I think you must agree with my position that when you find that the act is done under the license of the Secretary of Commerce, the authority of the Secretary of the Treasury ceases.

Mr. THURMAN. That may be all right, but I am trying to avoid the possibility of the Secretary of Commerce or the Secretary of the Treasury or any other Secretary having the administration of this bill licensing the transaction, and then having the Secretary of the Treasury come along when the time comes for payment, and say that the transaction is illegal, and he will not sanction the payment.

Mr. ELLIOTT. There is nothing in this bill which says that the Secretary of the Treasury, when the Secretary of Commerce has granted a license for a transaction, can suspend payment.

Mr. THURMAN. He can suspend the consummation. That is the same thing, is it not?

Mr. ELLIOTT. He can suspend the consummation if it is in violation of this act.

Mr. WARREN. Who is to determine that?

Mr. ELLIOTT. The act itself provides that if the transaction is carried on under the license of the Secretary of Commerce it shall not be in violation of the provisions of this act.

Mr. WARREN. The Secretary of Commerce might suspend or revoke his license at any time. But there is another class of transactions that would not be covered by your proposition. Take the case of a transaction that was not licensed at all. The Secretary of the Treasury under this provision comes to the conclusion that it is in violation of the provisions of the act, and suspends it. The Secretary of Commerce, on the other hand, having had other transactions with this same person, comes to the conclusion that it is not in violation of the act and he is inclined not to send it over to the Department of Justice, or he is inclined to issue a license on a similar transaction. The difficulty, to my mind, seems to be that you have got two departmental heads deciding whether any given transaction by any given man is or is not in violation of the law.

Mr. ELLIOTT. Just supposing a case where neither the Secretary of the Treasury nor the Secretary of Commerce had acted upon it—a case that comes up anew, as you say—one might hold one way and one the other—

Mr. WARREN. As a matter of fact, the Secretary of the Treasury might not decide whether it was or was not, but he might send over all the facts to the Department of Justice to institute suit if they thought it necessary. I notice that the responsibility is generally laid upon us to decide.

Mr. ELLIOTT. With respect to your suggestion, there again I do not see how any conflict can arise. If a bank on its own account was undertaking to pay money to an alien enemy, it could only do so under the license of the Secretary of the Treasury. On the other hand, if the payment was made by any person other than a bank, the license would come from the Secretary of Commerce. There would be no conflict of jurisdiction, therefore, because it would have to be a bank making the payment in order for the Secretary of the Treasury under this amendment to have anything to do with the license; and if it was not a bank, the Secretary of Commerce would issue the license.

Mr. WARREN. Precisely; but you are looking only at this end of the transaction. Suppose that the Secretary of Commerce has been investigating this same gentleman we are talking of, in Spain, in relation to other transactions that have not anything to do with this particular bank, and suppose he has made up his mind that this Spaniard is all right and is not active in violation of the act, or is not an enemy within the purview of this act, and then comes along a transaction between a bank and this same Spanish subject, and the Secretary of the Treasury makes up his mind that that transaction is in violation of the act, inasmuch as he believes the Spaniard to be an enemy or acting indirectly for an enemy, there is at once a conflict.

Mr. ELLIOTT. You are dealing with the same person, who has transactions with two different people over here; you are dealing with two different transactions.

Mr. WARREN. But the man is the same, and the question is whether he is or is not an enemy. The Secretary of the Treasury may have to decide, between transactions A and B, the question whether he is an alien enemy. The Secretary of the Treasury would decide in connection with transaction X, with this bank over here; the Sec-

retary of Commerce would decide as to a similar transaction Y, with a person not a bank over here. Now, is there not a very great possibility of conflict? In fact, I could hardly think that there would be otherwise than a conflict, because the Secretary of Commerce would have much greater facilities for investigating your Spanish trader than the Secretary of the Treasury would have.

Mr. ELLIOTT. Do I understand it to be your position that the Secretary of Commerce is to define who are alien enemies under this bill?

Mr. THURMAN. No; the Department of Justice does that.

Mr. WARREN. The courts decide that in the last resort; and the Secretary of Commerce decides it first, in making up his mind whether he will or will not issue or revoke a license. He may refuse a license to A, B, and X, who are not banks; but the decision of the Secretary of the Treasury, which relates to a banking transaction Y, might be entirely different from that of the Secretary of Commerce which relates to those who are not banks.

Mr. ELLIOTT. I understood you to say that the Secretary of Commerce might decide that some person in Spain was not an alien enemy.

Mr. WARREN. And therefore hold a license not to be necessary.

Mr. ELLIOTT. I am not speaking of the license, but the status of the person with whom you deal. Is it not a fact that you provide in the bill what persons shall or shall not be considered alien enemies, and that the license is only issued to those who come within that status?

Mr. WARREN. But somebody has got to decide whether the facts regarding any given person bring him within the definition of an "enemy."

Senator VARDAMAN. Somebody has got to determine the facts. You determine here who an "enemy" is.

Mr. THURMAN. That must be the Secretary of Commerce, subject to submission to the Department of Justice, in case of doubt.

Senator VARDAMAN. In order to make this law efficient there must not be two heads. I do not care which department it is put in the hands of: but so far as we can, I think we ought to shape this bill so as to make one executive head in the enforcement of the law and let the other department of the Government cooperate. If the Secretary of the Treasury has got the machinery with which to acquire certain information that machinery ought to be at the disposal of the Secretary of Commerce, and vice versa.

Mr. ELLIOTT. I think, Senator, speaking for the Secretary of the Treasury—and, by the way, I believe he has written you just exactly his position about the matter—I am quite sure that there is no disposition on his part to have transferred to the Treasury Department any jurisdiction which invades the territory of the Department of Commerce. On the other hand, I feel quite sure that he wants the jurisdiction of the banks and banking matters preserved to the Treasury Department.

I assume that it is because I have been unable to properly explain this section 18 to the committee and these other gentlemen, but I am frank to confess that I cannot see any illustration yet that shows any conflict that would arise in the operation of section 18. So long as the jurisdiction of the Secretary of the Treasury is confined to

the examination of banks and the control of foreign exchange transactions, which are purely banking matters, and so long as the Secretary of Commerce is left the control of all other matters under the bill, I do not see how or why any conflict is going to arise, and I submit that the purpose of section 18, and the result of section 18, is not to create but to avoid conflict or jurisdiction. It cannot be contended that the Department of Commerce has any jurisdiction over banks and banking, and, as explained by Secretary McAdoo in his statement, any attempt to give another department of the Government a control over the banks or the right to go in and examine a bank, or the right to trace down these transactions, or the right to say that gold shall or shall not be shipped from the country, will inevitably create such a conflict and such confusion in the control of the banks as to result in very serious conflict.

You cannot separate the foreign exchange transactions from your gold shipments. If you open credits they have got to be paid, and they have got to be paid ultimately in gold, and that is going to involve the shipment of gold, sooner or later, and in order to adjust the credits, and unless the Secretary is left with his control over those matters, it is going to be an exceedingly difficult matter for the Secretary of the Treasury and the Federal Reserve Board to control the financial matters that have got to be engaged in between this and other countries during this war.

The CHAIRMAN. Why do you give to the Secretary of the Treasury, in section 18, the power of discovery and preventing of violations of section 3 of the act? That is in lines 17 and 18 on page 49. Section 3 seems to relate to a number of things that on the theory of this bill would be given largely to the Secretary of Commerce.

Mr. ELLIOTT. That, of course, relates only to violations of section 3, which are brought about through the use of foreign exchange or shipment of gold. It is confined, of course, to those two things.

Mr. WARREN. Every foreign transaction involves—every shipment out of the country involves, of course—payment either in exchange or in gold?

Mr. ELLIOTT. No; most of them are paid by commodities. If we are shipping goods to Spain and Spain is shipping goods to us, the shipments offset each other, and gold or exchange would be used only to settle the excess one way or the other.

Mr. WARREN. But each specific transaction has to be settled as a specific transaction? The exchange is bought here and the goods are bought there.

[At this point a recess of 10 minutes was taken, to enable the members of the subcommittee to go upon the floor of the Senate, at the expiration of which time the subcommittee resumed its session.]

The CHAIRMAN. Would you like to say anything else about section 18, before Mr. Thurman returns to the onslaught?

Mr. ELLIOTT. I merely want to reiterate what I have attempted to show there.

The CHAIRMAN. Now, Mr. Thurman, in view of what Mr. Elliott has said, what have you to say?

Mr. THURMAN. In the first place, Mr. Chairman and gentlemen, I would like to explain, and have put in the record, the attitude of the Secretary of Commerce in reference to the matter under con-

sideration. He has agreed, not only with the President, but also with Secretary McAdoo, that matters which this committee feels are strictly financial, and relate to finance, under this bill, should be by the bill placed under the control of the Treasury Department, the committee to determine what matters are strictly financial and what are not. The conclusion of the committee will be perfectly satisfactory to him. In other words, he has no desire to trench in any way, shape, or form upon the prerogatives of the Treasury Department.

The CHAIRMAN. You say "prerogatives of the Treasury Department." You will bear in mind that we are enacting new legislation here.

Mr. THURMAN. Yes; I mean as he now has entire control of the finances, of banks, and so forth.

The CHAIRMAN. Yes.

Mr. THURMAN. This section 18, however, it seems to me creates a divided authority that it is almost impossible to get away from if enacted into law.

Senator VARDAMAN. Which is the section of the bill which does that?

The CHAIRMAN. He says section 18.

Senator VARDAMAN. No; but I mean the part of the section where this would occur; in what section?

Mr. THURMAN. I am coming to that. By this section of the act "the Secretary of the Treasury is authorized and empowered, under such regulations as he may prescribe, to examine, supervise, and control all dealings in foreign exchange."

Take that, if the committee please, and suppose that a transaction contemplating the receipt of goods and the payment by exchange for those goods is licensed by the Secretary of Commerce. That makes the transaction, under the first provision of this bill, perfectly legal. Under this provision the Secretary of the Treasury, having the right to examine, control, and supervise dealings in exchange, would clearly, it seems to me, have the authority to step right in then and there and annul the action of the Secretary of Commerce in issuing the license by refusing permission to make that payment.

Mr. ELLIOTT. May I ask a question there?

Mr. THURMAN. Then, right there, you would have one Secretary authorizing a transaction, and the other Secretary stepping in before it is completed and preventing it.

Mr. ELLIOTT. May I ask Mr. Thurman to cite a concrete case illustrating what he means by a payment being made in exchange for a transaction licensed by the Secretary of Commerce? In other words, I want to see where, in a concrete case, this conflict would arise.

Mr. THURMAN. Well, say a transfer of money through a bank. Under this provision of the bill, after the goods were delivered, could not the Secretary of the Treasury step in and prevent the payment of that money to the seller of the goods, through the bank?

Mr. ELLIOTT. Do I understand that you mean by "foreign exchange" a transfer of money through a bank?

Mr. THURMAN. I will eliminate the exchange. I am not thoroughly acquainted with that matter.

Mr. ELLIOTT. We cannot eliminate the question of foreign exchange, because you say it is in the payment by exchange that a conflict is going to arise. I have asked you to give a concrete illustration of how the payment is going to be made by exchange, so that we can see where the conflict is going to arise.

Mr. THURMAN. To be quite frank, I will admit that I do not understand just how that financial transaction would be carried out; but take one that is more simple to my mind.

Mr. ELLIOTT. That is what I want to get.

Mr. THURMAN. Take a transaction where an American concern purchases goods, under a license, from someone abroad. The agreement is that upon delivery of those goods payment is to be made through a bank in money or by a transfer of credit. Now, under this section would not the Secretary of the Treasury have the right to step in and say to the bank that that payment could not be made through that bank?

Mr. ELLIOTT. No, sir.

Mr. THURMAN. Why not?

Mr. ELLIOTT. I will answer that. We will assume that a resident of the United States has purchased hides from a dealer in South America, under a contract that payment is to be made to that South American dealer in London exchange; that is to say, that the American, the citizen of the United States, is to arrange to have a credit opened against which that dealer can draw; and, by way of illustration, that is really what the payment by exchange means, merely that you open a credit in some bank in a foreign country, if it is foreign exchange, against which the seller may draw. Now, if the Secretary of the Treasury in his examination of the banks under section 18 should find that that credit had been opened and it was to be drawn against by that dealer in South America, and he should then be confronted with the fact that that dealer in South America was making that sale under authority of a license of the Secretary of Commerce, that transaction would be just as legal as if the whole transaction had taken place in the United States.

Senator VARDAMAN. Just one point, right there. Does this bill give the Secretary of the Treasury power to suspend that payment?

Mr. ELLIOTT. No, sir.

Mr. THURMAN. That is just the point. I think it does, as it is written.

Mr. ELLIOTT. The section to which you refer reads as follows:

Whenever it shall appear to the Secretary of the Treasury that the export of any gold or silver coin or bullion or of any moneys of the United States or the consummation of any pending transaction in foreign exchange may result in violation of the provisions of this act, he may cause notice to be served on the parties in interest to withhold such shipment or to suspend the consummation of such transaction.

He may then suspend the consummation, and then only. If the pending transaction is engaged in under authority of the Secretary of Commerce, it cannot result in violation of the provisions of this act because the act specifically provides for the licensing.

[At this point a recess of 10 minutes was taken to allow the members of the subcommittee to go upon the floor of the Senate, at the expiration of which time the subcommittee resumed its session.]

Mr. THURMAN. Gentlemen of the committee, I do not agree with Judge Elliott, in the present reading of the bill, that under this section the Secretary of the Treasury would not have the right to overrule any rulings that the Secretary of Commerce might previously have made in the issuance of licenses. It seems to me that as it is now written he could step in at any time and prevent the completion of the transaction by ordering the stoppage of the payment.

Senator Vardaman has offered a suggestion which I think would correct that feature, that these transactions, if carried on under license of the Secretary of Commerce, are legal, and cannot be stopped or interfered with by the Secretary of the Treasury. That would cover that phase of it, I think; do you not think so, Mr. Warren?

Mr. WARREN. That particular phase; yes.

Mr. THURMAN. The other phase suggested by Mr. Warren is the case where no licenses are issued. Then you have a situation where unquestionably the Secretary of Commerce may not think a license is necessary, and you immediately vest the power in the Secretary of the Treasury to say that a license is necessary.

Mr. ELLIOTT. May I interrupt you again to ask that you cite a concrete case where that could arise.

Mr. THURMAN. Yes. Suppose that the Secretary of Commerce should decide that an individual is not an enemy or ally of an enemy, and the transfer is proceeding. Under this bill, could not the Secretary of the Treasury immediately declare such person, in his opinion, to be an enemy or ally of an enemy and order such transaction stopped? Could he not do that?

Mr. ELLIOTT. He could not, as I read the bill.

Mr. THURMAN. Why not?

Mr. ELLIOTT. Because the only power vested in anybody to fix the status of a person is that vested in the President.

Mr. THURMAN. Then, under what authority has anybody the right to suspend any transaction and issue or revoke any license? Who is to determine that?

Mr. ELLIOTT. If the status of a person with whom a trade or transaction is to be carried on under the language of the act—which is very specific—is that of an enemy, then no person can deal with that enemy except under license of the Secretary of Commerce.

Mr. THURMAN. Yes; who determines then and there, does he not, whether that person, when he issues a license, is an enemy or ally of an enemy.

Mr. ELLIOTT. There is absolutely no discretion vested in the Secretary of Commerce to determine the status of a person as an enemy or not as an enemy. If he is an enemy, under the language of the act, then, and then only, the Secretary of Commerce can give a license.

Mr. THURMAN. Yes; go ahead.

Senator VARDAMAN. Just take the bill and read the definition. Let us see who is made an enemy.

Mr. ELLIOTT. The bill says, in section 2 [reading]:

SEC. 2. That the word "enemy," as used herein, shall be deemed to mean, for the purposes of such trading and of this act—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and

naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war, or incorporated within any county other than the United States and doing business within such territory.

Mr. WARREN. Would not the Secretary of Commerce be obliged to decide in any given case whether a man was resident in or resident outside and was or was not doing business within Germany?

Senator VARDAMAN. That is it.

Mr. ELLIOTT. Exactly. He has no discretion in the matter, but he merely determines whether he is a resident of a country with which the United States is at war.

Mr. THURMAN. Can you not conceive, under the provisions, that the Secretary of Commerce, acting on information he might have in regard to an individual, would say that a license was not necessary to that man, because he did not come within the definition, and that the Secretary of the Treasury might turn right around and say that he did come within it?

Mr. ELLIOTT. I can not.

Mr. THURMAN. I can, very easily.

Mr. ELLIOTT. Would you mind giving me an illustration of when he might?

Mr. THURMAN. A person might apply to the Secretary of Commerce for a license to deal with a certain individual. The Secretary of Commerce might say that that man was not an enemy or was not an ally of any enemy; that he did not come within the definition prescribed by the bill, from the information and knowledge which he had. Now, the Secretary of the Treasury might think that he had other information and knowledge, and say that the man did.

Mr. ELLIOTT. Just taking up your illustration, you say that he might apply for license to trade with a certain individual. Located where?

Mr. THURMAN. Located anywhere—abroad.

Mr. ELLIOTT. Would not his application have to say that the individual with whom he wanted to deal was located in the territory of a country with which the United States was at war?

Mr. THURMAN. It would have to comply with the provisions of the bill.

Mr. WARREN. Or in any outside country, and doing business within the enemy country.

Mr. THURMAN. If the Secretary of the Treasury had information to show that the facts were such that the Secretary of Commerce should have issued a license, then and then only the Secretary of the Treasury might step in and say, "In my opinion this man is an enemy or an ally of an enemy, and a license is required"; and there you would have a conflict, right off. I do not mean to say that he would do it, but under the provisions of the bill as it is written he has the right and he might do it.

Mr. ELLIOTT. I still fail to see, if the status is fixed by statute and there is no discretion except in the President of the United States, and there is no discretion under the language of the act as to anyone except those who come specifically within the terms of the act, how you can say——

Senator VARDAMAN. Some one has to ascertain the facts that he is an alien enemy and is in another country doing business. Who is to ascertain these facts. It is the Secretary of Commerce or the Secretary of the Treasury, is it not?

Mr. ELLIOTT. In granting the license, as a condition of granting the license it would have to appear—

Senator VARDAMAN. But suppose no license is granted? Suppose that the Secretary of Commerce concludes that no license should be granted, and suppose that the Secretary of the Treasury should conclude from his investigation that a license is necessary?

Mr. ELLIOTT. That illustrates the point that I am very glad you brought out. The Secretary of the Treasury would have no jurisdiction in the matter at all unless the person involved was a bank or banking association, and the Secretary of Commerce would have jurisdiction over all other persons.

Mr. THURMAN. Suppose the operation was conducted through a bank?

Mr. ELLIOTT. Just a moment; let me finish this.

Mr. THURMAN. Certainly.

Mr. ELLIOTT. Therefore there would not be any conflict as to the status of an individual, because they would not have jurisdiction over the same individuals. In other words, the Secretary might conclude that a bank was dealing with an enemy, or the Secretary of Commerce might conclude that any other person was dealing with an enemy. If the license was issued to any one under the provisions of this bill it would be issued by the Secretary of Commerce if it was to anybody else than a bank. It would be issued by the Secretary of the Treasury only in case it was a bank. So there could not be any conflict as to the question of the person to whom the license was given.

Senator VARDAMAN. Look at that a moment and see if that distinction is made.

Mr. ELLIOTT. Yes; and it is brought out all through the act, also.

The amendment to section 5, page 12 of the committee reprint, reads [reading]:

SEC. 5. That the President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this act in whole or in part so far as they apply to an ally of enemy; and the Secretary of the Treasury, may, under direction of the President, grant licenses under this act, special or general, to any bank, and the Secretary of Commerce may, under direction of the President, grant licenses under this act, special or general, to any other person or class of persons—

And so forth.

The persons to whom the licenses are granted are specifically defined and separated, so that there can not be any conflict as to the Secretary of the Treasury overruling the Secretary of Commerce, or vice versa.

Mr. THURMAN. Yes; but take the other situation, Judge Elliott, the one where the Secretary of Commerce decides that a license is not necessary, and the transaction then goes ahead. Now, I ask you the question, under the provisions of section 18, in a case of that kind can the Secretary of the Treasury not step in before the transaction is completed and the payment made, and say, "In my opinion the party

to whom the payment is going is an enemy or an ally of an enemy, and a license must be had?"

Mr. ELLIOTT. No, sir; he can not.

Mr. THURMAN. Why not?

Mr. ELLIOTT. You are presupposing that a license is granted to an enemy.

Mr. THURMAN. No; I am not presupposing anything in this case.

Mr. ELLIOTT. I understood you to say, if the Secretary of Commerce had granted a license.

Mr. THURMAN. No; if a transaction is proposed and is submitted to the Secretary of Commerce and he decides that no license is necessary.

Mr. ELLIOTT. Just let us take that. Then the Secretary of the Treasury would have nothing on earth to do with that unless the person dealing was a bank, in which case the Secretary of Commerce would have no authority in the first instance to decide whether the person was an enemy or not.

Mr. THURMAN. Now, then, if the payment went through a bank, would not the transaction be interrupted right in the middle by the Secretary of the Treasury?

Mr. ELLIOTT. It would not. If the payment was made in connection with a transaction in which the Secretary of Commerce had issued a license, it would not constitute a violation of the act, and therefore the Secretary would have no power to do anything at all in the matter.

Mr. THURMAN. Therefore the question of license, so far as the Department of Commerce is concerned, in the case I have assumed, does not figure at all.

Mr. ELLIOTT. State your concrete case and I will be able to consider it.

Mr. THURMAN. A case is presented to the Secretary of Commerce, and the question as to whether a license is required or not required.

Mr. WARREN. By a merchant.

Mr. THURMAN. By a merchant.

Mr. WARREN. Who wishes to buy goods in Spain.

Mr. THURMAN. And the Secretary of Commerce decides that a license is not necessary under the provisions of this act; in other words, that the transaction may be carried on under this act. Now, part of that transaction contemplates the payment of money by the American merchant to the party from whom he purchases the goods—a payment through a bank. Under section 18 as it is written can not the Secretary of the Treasury arbitrarily decide that a license in the first instance should have been required and prevent the payment, or payment through the bank, thereby interrupting the transaction right there, before it is contemplated? In other words, would not the Secretary of Commerce be in the position of saying that no license is required, and the Secretary of the Treasury then come along and say that one is required?

Mr. WARREN. Say that it was a violation of the act and therefore suspend it?

Mr. THURMAN. Yes.

The CHAIRMAN. Does section 18 nullify section 5?

Mr. THURMAN. Exactly.

Mr. ELLIOTT. No, sir.

The CHAIRMAN. But is not that the effect of it?

Mr. ELLIOTT. I do not see where there is any conflict between section 18 and section 5.

Senator VARDAMAN. Just a moment. Section 18 reads [reading]:

SEC. 18. That, for the purpose of supervising and controlling foreign exchanges and the export of gold or silver coin or bullion or of any moneys of the United States and of discovery and preventing violations of section three of this act, the Secretary of the Treasury is authorized and empowered, under such regulations as he may prescribe, to examine, supervise, and control all dealings in foreign exchange, transfers of credits in any form (other than credits relating solely to transactions to be executed wholly within the United States), and to supervise and control exports of gold or silver coins or bullion.

And so forth.

He has jurisdiction of every matter, whether it be a transaction of the bank or not, if it is done by a merchant through the bank. Does not this section give him absolute control of it?

Mr. ELLIOTT. I think not, Senator. I do not think that this would give the Secretary of the Treasury any power, for example, to declare an embargo on gold or to say that no transaction in foreign exchange could be engaged in, because if you will read the rest of the section you will find that while he makes these investigations he can only take action when, as the result of such investigation, he finds that the act will be violated, under that section, if the transaction is concluded; so that it does not vest in the Secretary power to suspend a legitimate transaction.

Senator VARDAMAN. Does it not vest in him the power to determine whether it is legitimate or not?

Mr. ELLIOTT. It vests in him the power only to suspend a foreign exchange transaction if, in his opinion—

Senator VARDAMAN. Now, that is one of the transactions that comes under the jurisdiction of the Secretary of Commerce, through a bank. Of course he has not power to suspend an entirely legitimate and regular transaction, but he has power under this section to determine the fact whether it is legitimate or not. There is where the conflict comes in, it occurs to me.

Mr. ELLIOTT. The power of the Secretary of the Treasury extends only so far as to determine whether or not the completion of a transaction in foreign exchange, or a shipment of gold, is going to result in a violation of the act. If it does result in a violation of the act, neither the Department of Commerce nor the Secretary of the Treasury has any jurisdiction. It then devolves upon the Department of Justice to prosecute any violation of the act. If he finds out that if a transaction is allowed to be completed it will result in a violation of the act, he can then serve notice on the bank. "Now, if you go ahead with this you will be liable to prosecution," and if the bank disregards his warning, then the Department of Justice steps in and prosecutes the bank for violation of the act. But it does not vest in the Secretary of the Treasury the powers of the Department of Justice, nor does it vest in the Secretary of Commerce the powers of the Department of Justice. I was surprised to hear the suggestion made that the Secretary of Commerce has the final authority to determine whether or not a transaction is a vio-

lation of the provisions of this act. He says that somebody may go to the Secretary of Commerce and say, "I want to ship these goods." or "I want to pay this money to somebody located over in Germany;" and if the Secretary of Commerce says, "Go ahead and do that; that is no violation of the act," that gives him immunity. The only way on earth that the Secretary of Commerce can give immunity is by licensing, and if he does not give a license then it is for the courts to determine whether any transaction is a violation of the act. I am very much surprised to hear it even suggested that a part of the duty of the Secretary of Commerce is to sit up and say, "I will not give you a license for that, but you can go ahead and do it." If that is the purpose of the act, you might as well abolish the courts.

Mr. WARREN. He might arrive at a different decision on the same state of facts from the decision which the Secretary of the Treasury might arrive at. That would evidently lead to conflict.

Mr. ELLIOTT. Do you think any conflict could arise because the Secretary of Commerce might express the opinion, "This will not constitute a violation of the act if you go ahead and do it," and it might subsequently be decided by the Department of Justice that it did constitute a violation of the act, and you go ahead and prosecute?

Mr. WARREN. Yes; but it is not merely a question of possible conflict between two governmental officers. You might have conflict between two citizens of the United States in exactly the same way. I will give you a concrete illustration: Suppose A and B are both dealing with X in grain, and A has to consummate his transaction by going to a bank. B does not have to consummate his transaction by going to a bank. Both A and B go to the Secretary of Commerce when they enter into their transactions and the Secretary of Commerce says to each: "X, in Spain is all right. You do not need a license." B, therefore, consummates his transaction, not through a bank, and nothing happens to him. A attempts to consummate his transaction through a bank, and the Secretary of the Treasury says: "I differ with the Secretary of Commerce. I think the transaction should have required a license, and is therefore now a violation of law, and I will turn it over to the Department of Justice." Now, there are two citizens who go to two different governmental officers and get two different opinions. That might be a serious situation.

Mr. ELLIOTT. Suppose that A consummates his transaction and the Department of Justice itself determines that it does violate the act. As a matter of fact, is it the custom of the Department of Justice or any other department to undertake to prejudge a case of that kind?

Mr. WARREN. On a question of fact, we very generally follow the decisions of the different departments. For instance, we may think that a thing is illegal, but if we find that a given department has ruled, on the facts, that it is not, as a matter of comity with the department we do not necessarily differ with them.

Senator VARDAMAN. Now, I am going to take that same illustration that Mr. Warren has just made. We will say that the Secretary of Commerce investigates the transaction of the man who does not happen to go to the bank. He thinks that the man in Spain is all right, and a license is not necessary. Subsequently the same man

comes back—or another—and he has to go to a bank. Evidence is brought to the attention of the Secretary of Commerce that this man in Spain is not all right, or that probably he needs a license. It would be perfectly proper for the Secretary of Commerce to require that license, but the thing about it is that, for the efficient enforcement of the law, it seems to me that authority ought to be vested in one supreme head, to prevent—I can understand how the cases mentioned would bring about the same state of facts—the conflict of authority. Now, I do not think anybody can hope for a smooth, efficient, proper enforcement of the law where the authority is divided, as it would necessarily be in that case you just mentioned.

Mr. ELLIOTT. May I answer your suggestion right there?

Senator VARDAMAN. Certainly; I am desirous of getting light myself.

Mr. ELLIOTT. That is what we are all trying to do. I think we have all gotten some distance from the point of the matter. The Constitution of the United States determines the question of what department has authority to decide whether the act has been violated. That is vested in the courts of the United States, and no ruling of the Department of Commerce or the Treasury Department, or even of the Department of Justice, would affect any individual who was indicted for violation of the provisions of this act. He might have gone to the Attorney General, and the Attorney General himself might have said to him. "If you do this act it will not constitute a violation of the law." That opinion of the Attorney General himself would not bind the courts. So that the administrative officials will not undertake, and do not undertake, to say whether an act is a violation of the law. In that respect, I have been trying since the passage of the Federal reserve act to get a ruling from the Department of Justice as to what constitutes violation of the act, section 32, as to certain directors.

If the question is a close one, the Department of Commerce would issue a license, and if it was not a close one they would not come and ask. In other words, if they were going to deal with an individual in enemy territory, if they went to the Department of Commerce, it is inconceivable to me that the Secretary of Commerce would say, "That deal is with a resident in Germany and living there, but you do not need any license in that case." In other words, the only time when the question would be raised would be when someone wanted to trade with an individual whose status is fixed by the act, who is a resident of Germany or some other country with which we are at war; and then they would come to the Department of Commerce and present the facts and they would get a license. If the license is granted, that makes the transaction legal, and neither the Secretary of the Treasury nor any one else could stop it; and all this assumption that the Secretary of the Treasury or the Secretary of Commerce is going to be expressing opinions to individuals that they can trade with the enemy without violation of the act is not based, certainly, on the practice of the Government, because I have tried often enough myself to get opinions from administrative officials when I have been unable to do so.

Senator VARDAMAN. But the point is that the administration of the laws of this country is not held up until the Supreme Court, the final

arbiter or tribunal that determines whether the law is a law or not, passes upon it. These men in these offices mentioned under this statute are named to execute the laws, and they may go ahead and violate them and the Supreme Court may finally say, "You are wrong." But if you had to wait for every question to be adjudicated, you would never get anywhere; and what we want to do now is to prevent a conflict between to officers in the enforcement of the law before the matter has been interpreted by the Supreme Court.

Mr. WARREN. Let me give you another illustration: During the past four months, the Department of Commerce, the State Department, and the Department of Justice have been flooded with communications on this subject. The law now being that you can not deal with an enemy, we have been flooded with requests from business men all over the country asking questions like, "Is X, down in Argentina, an enemy, or is he dealing indirectly with an enemy"? "Would trade with X be indirectly trade with Germany"? Of course we have had to say, that pending the passage of the bill, we are not going to answer any questions.

After the bill is passed, all those men would go to the Department of Commerce and they would necessarily apply for a license; they are going to try to get some information. They want to do business fairly, and they might say, now, "Is X an enemy within the purview of this act"? but "We know he is not an enemy within the purview of the act, but the act makes it illegal to deal directly or indirectly with an enemy. Now, we want to know, when we deal with X, are we dealing indirectly with an enemy." Well, the Secretary of Commerce has got a lot of information about X, and he says, "Why, gentlemen, so far as I know, from all the information I have, X is all right; go ahead, at your own risk, however, of course."

Now, having gotten that information and gone ahead and dealt with X, I go to the bank to buy some exchange, and the Secretary of the Treasury, looking into the affair, says, "Well, I believe that X down in Argentina is dealing indirectly for a German. Therefore, this payment to X is going to be in violation of the provisions of this act. That is my opinion, and therefore I am going to order you to suspend the consummation of that transaction." That is a perfectly possible case; and not only a possible case, but more than probable.

Mr. ELLIOTT. May I ask you a question on that?

Mr. WARREN. Yes.

Mr. ELLIOTT. If any administration official is going to determine in advance of a consideration of the facts that a transaction is or is not a violation of the act, does not that bring a direct conflict between that department and the Department of Justice?

Mr. WARREN. No. The case I put was that the Secretary of Commerce says, "You have got to take your own risk. We have looked this man up, and so far as we know he is all right."

Mr. THURMAN. It is not a conflict with the Department of Justice. Let me call your attention to this. I do not know whether you are familiar with the decisions which run into the hundreds rendered by the legal officers of the Department of Commerce regarding the seamen's law, many of which never went to the Department of Justice

at all, and the department is operating under these constructions of the seamen's act to-day.

Mr. ELLIOTT. The Secretary of Commerce says to this applicant, "I have looked into the matter of X, and so far as I know he is all right. You are safe in going right along." In the meantime you and your agents have determined that X is shipping munitions of war to an enemy, and as the result of that investigation you determine to have him indicted. Do you mean to say that that rule of the Secretary of Commerce is going to give him any immunity at all?

Mr. WARREN. Surely not.

Mr. ELLIOTT. Has it any effect in that way, at all?

Mr. WARREN. Surely not.

Mr. ELLIOTT. Is there any occasion for conflict arising so long as the law is administered in conformity with the provisions of the act?

Mr. WARREN. Yes; but if we have two department heads deciding in two ways on the same man there is considerable embarrassment to us. But I am not considering so much the embarrassment to the Government officials as the embarrassment to the two American citizens who might receive two entirely different rulings. If they were going to carry out their transactions one way, through a bank, they might get one ruling, and if some other way and not through a bank, they might get another ruling.

Mr. ELLIOTT. If you construe this act to mean that the Secretary of Commerce is to determine what are and what are not violations of this act, and the courts are not to be used in this matter, I am entirely in—

The CHAIRMAN. I did not get that, Judge.

Mr. ELLIOTT. I say, if the construction to be placed upon this act is that the duty devolves upon the Secretary of Commerce to determine what are and what are not violations of this act, then I am on an entirely false basis, because my understanding has been all along that the courts are given jurisdiction to determine that question, and that no administrative official is permitted or authorized or empowered in any way to determine whether or not a transaction will or will not constitute a violation of this act. The only authority vested in an administrative official in this connection is that he may legalize the act by granting a license, if upon presentation of the facts it appears that a transaction is about to be engaged in that would otherwise constitute a violation of the act.

As already pointed out, if the application is made by anybody else than a bank the license is granted by the Secretary of Commerce, and if an application is made by a bank it is granted by the Secretary of the Treasury, so that, so far as conflict in administrative duties is concerned, there is no conflict. And, taking their own illustration, no conflict should arise except in a case where the Secretary of Commerce or the Secretary of the Treasury undertook to invade the province of the courts and determine in advance whether or not a transaction would constitute a violation of the act.

Mr. WARREN. But you give a power to the Secretary of the Treasury to suspend the transaction in case he arrives at a conclusion that it constitutes a violation of the act.

Mr. ELLIOTT. Yes; as we give to the Secretary of Commerce the power to issue a license in any case where he concludes it would be a violation.

The CHAIRMAN. Then you do allow these two secretaries to determine the legality of the proposed transaction?

Mr. ELLIOTT. In accordance with my statement the two administrative officials are authorized to issue a license, but they are not authorized to try the case.

The CHAIRMAN. It seems to me that until you get down to section 18 you have the duties of two officials, but when you get to section 18 you give to the Secretary of the Treasury practically all power over transactions beyond the seas. I do not want to say that positively, but that is the construction I put upon it from listening to the Secretary of the Treasury. It may not mean that, but that is the impression made on my mind, and I just want to get at what you interpret section 18 to say. Is that your understanding of it?

Mr. ELLIOTT. No, sir; if the language of that section is susceptible of that interpretation, I feel sure that the Secretary of the Treasury would feel that there should be something done to remove that doubt.

The CHAIRMAN. You say in section 18 that he is "empowered, under such regulations as he may prescribe, to examine, supervise, and control all dealings in foreign exchange, transfers of credits in any form," etc. They say that that puts in his hands the power to control it. They say that he can control it absolutely; that he can do just what he pleases with it; and it takes that power out of the hands of the Secretary of Commerce.

Mr. ELLIOTT. I will say that that is not what is intended.

The CHAIRMAN. It is the plain meaning of that language.

Mr. ELLIOTT. It is if you read it without reference to the context; but you will find that the only action that the Secretary of the Treasury can take, after his investigation, is based upon the assumption that the act has been violated. He cannot declare an embargo on gold, and he cannot say to any creditor in the United States, "You cannot pay your debts to your English creditors." He cannot control a legitimate foreign transaction. The only action he takes after his investigation is to prevent the shipment of the gold if its shipment will result in violation of law, or to prevent the consummation of a foreign exchange transaction if it will result in violation of law.

The CHAIRMAN. To "control all dealings in foreign exchange," is the language.

Mr. ELLIOTT. No, sir; but when you come to any action, on his part it can be taken only when it appears to him that the result of any transaction will be a violation of law. Mr. Warren says that gives him the power to determine that. Now, let us assume that a bank in New York has arranged to open a credit which the Secretary believes will result in a violation of the provisions of this act, and he serves notice on that person, and notwithstanding that the bank goes ahead and consummates the transaction, it is the courts that have to determine, in the final analysis, whether it is a violation or not, and not the Secretary of the Treasury. He has no power of a court, and he has no power to determine—neither he nor the Secretary of Commerce.

The CHAIRMAN. But for practical business, will not somebody have to determine quickly? It takes the courts a long time to settle these matters.

Mr. THURMAN. Mr. Chairman, under this section could not the Secretary of the Treasury determine, notwithstanding the fact that the Secretary of Commerce had previously held that the transaction was not a violation of the law—could not the Secretary of the Treasury under this provision giving him entire supervision and control, arbitrarily say—or not arbitrarily, if you please—that a transaction was in violation of the provisions of the bill, and therefore he suspended it? Can he not do that?

Mr. ELLIOTT. If you assume that the Secretary of Commerce is acting as a court, to determine whether or not——

Mr. THURMAN. Somebody has to put this bill in operation.

Mr. ELLIOTT. If you do not draw any distinction between the exercising of a power that is vested in an individual and the exercise of a power that is vested by the Constitution in the courts.

Mr. THURMAN. I do not mean to say that the transaction would give to an individual immunity, but somebody has got to decide, or you must stop the transaction and wait and submit it to a court.

Mr. ELLIOTT. Is it not a fact that if it is not determined each party engaged in the transaction must take certain chances?

Mr. THURMAN. Yes.

Mr. ELLIOTT. So that——

Mr. THURMAN. But somebody must guide the thing and put it into operation. I do not see how otherwise you are to get anywhere.

Mr. ELLIOTT. Do I understand you to mean that the power is vested in the Secretary of Commerce to determine what are and what are not violations of this act?

Mr. THURMAN. No; but I say he must decide, when a case is presented to him, whether it requires license, under the provisions of this bill, or whether it does not, and if he can not do that you can not have any transaction at all. You might just as well throw the bill away.

Mr. ELLIOTT. Does not the act itself prescribe when he shall have a license and when he shall not?

Mr. THURMAN. Every case must depend on its own state of facts. There is no arbitrary rule about that.

The CHAIRMAN. May I ask you to state in clear, simple language, so that an ordinary layman——

Senator FERNALD. Farmer.

The CHAIRMAN [continuing]. Yes; so that an ordinary farmer would understand just what are the functions and duties and powers of the Secretary of Commerce and the respective functions and powers of the Secretary of the Treasury? Please state that as clearly as you can, without interruption.

Mr. ELLIOTT. Will you state it, Mr. Warren? You are the author of the bill.

The CHAIRMAN. I want your statement, Judge Elliott, as you understand it.

Mr. ELLIOTT. Under the bill?

The CHAIRMAN. Yes; under the bill. We are taking the bill as a whole, now.

Mr. ELLIOTT. I will make it as concise as I can. This act, in a general way, is to prevent trading or intercourse of any kind between citizens of the United States and alien enemies. Alien enemies are specifically

defined as persons living or doing business in certain prescribed territory or countries with which this country is at war. The act specifically makes it unlawful for any person to have any dealings with anybody that comes within that classification of "alien enemy," and if any person does have dealings with an alien enemy, he is subjected to the penalty prescribed in section 15—it is made a criminal offense—and he may be tried in the courts and if convicted may be punished for the violation of the provisions of the act.

Inasmuch as it was anticipated that certain situations would necessarily arise when limited intercourse between the citizens of this country and alien enemies would have to be permitted, the act authorized the Secretary of the Treasury to issue licenses to persons, and to have them limited to intercourse with certain other persons, and provided that when such license was issued the act was taken out of the criminal class and made a legal transaction.

Naturally, in the administration of this act a number of questions will necessarily arise that are very close to the line, as to whether or not they do constitute trading with an enemy; and in order to enable the Government to see that those cases are prosecuted it vested certain powers in the Secretary of Commerce with reference to shipments abroad and things of that kind, to enable him to prevent the shipments or bring about these prosecutions.

It appeared that one of the most natural methods that would be resorted to for evading the provisions of this act and for paying the money to a resident of a belligerent country would be to use the machinery of the banks. This provision, section 18, and the other amendments were suggested because, the Secretary of the Treasury having jurisdiction over those matters, he would be in a better position to run down and find out about these transactions that would, if completed, constitute violations of the act. With that end in view, these amendments were offered, so that there was vested in that branch of the Government which was best equipped to handle it the power to make investigation and find out whether pending transactions might or might not result in violations of this act. It was naturally assumed that in the course of those investigations it might develop that some transactions were only partially completed, and they might have gone to that point without any intention on the part of the parties concerned to violate the act. They might have been ignorant of the facts. So that, instead of providing that they should go ahead and complete the transaction and then prosecute them under section 15, the provision was put in here that if that condition arose and the Secretary found out that a transaction was pending which might result in violation of the act, he might warn the parties and say, "You had better stop and not complete this transaction." It was not intended to place in the hands of the Secretary of the Treasury the power to override or to interfere with the powers of the Secretary of Commerce in any way, shape, or form. It was intended only to give him the power to use the machinery that he has now for looking into these transactions, and to add an additional power, giving him power to call for the books, and so forth, in order to find out what this transaction was that was being engaged in. The purpose is to make the act more effective, it is to provide a machinery by which the Government can be able to watch these transactions more effectively.

The CHAIRMAN. Then I understand that you construe this bill to mean that the Secretary of Commerce is the main administrative agency for carrying out the provisions of the bill?

Mr. ELLIOTT. Absolutely.

The CHAIRMAN. And that the Secretary of the Treasury simply assists in matters relating to financial and banking matters?

Mr. ELLIOTT. That is the whole purpose. The Secretary of the Treasury, I am quite confident, has no desire to have any part of this bill which relates to the Department of Commerce part of the bill transferred to his department.

The CHAIRMAN. Would it be satisfactory to the Secretary of the Treasury if the committee should adopt amendments here which would leave the administrative functions in the hands of the Secretary of Commerce but would require the Secretary of Commerce to act through or with the approval of the Secretary of the Treasury in anything requiring an investigation of a bank, or a matter purely and solely financial?

Mr. ELLIOTT. I can only say that of course you could not say what would or would not accomplish that purpose. If the bill is so drawn as to leave the jurisdiction over banks and banking and financial matters in the Treasury Department, and to prevent any conflict on that score, I feel sure that that is all that the Secretary of the Treasury is anxious to accomplish; and these additional powers which have been the subject of discussion are not adding to his jurisdiction, but it is merely enabling him to use the machinery that he has already got, more efficiently. In other words, it is such a simple matter to evade the provisions of this act, if you use the machinery of the bank, through its process of foreign exchange, that unless the Secretary is given a large power to send for these books and make an investigation and get at the basis of the real transaction, it will be very hard for anybody to enforce the provisions of the bill.

Senator VARDAMAN. I understood you, Judge Elliott, that in the main the transactions which come under this bill are treated by this bill as being under the control of the Secretary of Commerce, but in other transactions the Secretary of the Treasury is given supreme authority—for instance, transactions pertaining to banks.

Mr. ELLIOTT. Yes.

The CHAIRMAN. Does not that create, necessarily, a dual authority?

Mr. ELLIOTT. No, sir; not at all, because the jurisdictions is over other persons. Commerce has jurisdiction over everybody except banks.

Mr. THURMAN. You mean separate?

The CHAIRMAN. But he does use the agency of the Treasury Department in helping out the authority of the Department of Commerce?

Mr. ELLIOTT. That is what it amounts to. It makes the authorities coordinate.

Senator VARDAMAN. No; the Secretary of the Treasury is not an assistant of the Secretary of Commerce.

Mr. ELLIOTT. No; he is not a bureau of the Department of Commerce.

The CHAIRMAN. But how in the world are you going to have a supreme head unless you do have one of these departments cooperate with the other?

Senator VARDAMAN. That is what we have been talking about here all afternoon.

The CHAIRMAN. I have no feeling as between these two departments. I would just as soon give all these powers to the Treasury Department.

Mr. ELLIOTT. The Treasury Department does not want them.

The CHAIRMAN. You have got to have one or the other in charge.

Mr. ELLIOTT. There is no conflict, unless you give the same authority to deal with the same individual.

The CHAIRMAN. But you can not separate the individual.

Mr. ELLIOTT. You have separated it in all other matters. You have the Treasury Department control over financial matters, and the Department of Commerce control over commerce, and the Department of Justice control over legal matters.

The CHAIRMAN. This is an anomalous situation. It is a war situation, and things have to be handled quickly.

Mr. ELLIOTT. All that the Secretary of the Treasury is concerned about is to see that his control over the bank situation is not affected.

The CHAIRMAN. Now, would it not be possible to put some provision in here by which everything relating to banks must be done through and by and with the approval of the Secretary of the Treasury—

Mr. ELLIOTT. I think that is exactly what we have got.

The CHAIRMAN [continuing]. And still recognizing that this bill is being enforced by the Department of Commerce?

Mr. ELLIOTT. I think that is what we have got.

Senator VARDAMAN. The Secretary of the Treasury is perfectly willing to do that, except in matters pertaining to banks.

The CHAIRMAN. Very well.

Senator VARDAMAN. Except in so far as the regulation of the banks is concerned, he would have no objection to that, and there would be no conflict of authority; but there are transactions going through the banks that necessarily come under the jurisdiction of the Secretary of Commerce, and at the same time under the provisions of this bill they also go, under section 18, under the jurisdiction of the Secretary of the Treasury.

Mr. THURMAN. That is it.

Senator VARDAMAN. I think wherever it can be done that the machinery already established in these departments should be used for the enforcement of this law without creating additional offices and clerks and things of that kind, and there ought not to be any pride of power or authority that would cause the slightest conflict between these two departments of the Government. They have both got so much to do that where one is vested with the authority to enforce the law, the other ought to be willing, even though it assumes an inferior action, to render that assistance necessary to the proper enforcement of the law. Mr. McAdoo said here the other day, and I was very much impressed by it, "I have got the machinery which I can use to enforce the law, which will cost no so much as it would cost if you have to provide for that in the Department of Commerce."

As a representative of the people who are paying the bills, I want all of that machinery which he has got to be used, and it is not our purpose to derogate from one and add to another, but the purpose is to write this law so that it can be executed without conflict, without friction. We are legislating now for 105,000,000 people, and we are

not interested—I am not—in the question of where the authority is vested. I want to place it where it can be used to the best interests of all parties concerned.

Mr. THURMAN. That is exactly it.

Mr. ELLIOTT. I think we are all trying to accomplish the same purpose.

Senator VARDAMAN. I do not doubt it, sir. I am not criticizing you. I think it is your purpose and Mr. McAdoo's purpose. I think it is perfectly natural and human nature for the head of the Commerce Department to say "I do not want anybody encroaching on my preserves," and the Secretary of the Treasury feels the same way.

Mr. THURMAN. I do not think either one of us feels exactly that way. We are trying to get a thing straightened out; to make with you gentlemen a perfectly workable bill.

Senator VARDAMAN. That is all I desire.

Mr. THURMAN. Yes.

Mr. ELLIOTT. I simply want to emphasize one thing in passing. I think that the real concern of the Secretary of the Treasury in wanting to preserve the jurisdiction of his department, as he brought out the other day, is that all these financial transactions are so closely inter-related that if the administration of financial matter is under dual control, very much more serious consequences can come from that than from any other cause.

Senator VARDAMAN. I think you are entirely right about that.

Mr. ELLIOTT. That is what he wants to guard against.

The CHAIRMAN. Would it not be possible to have some provision that in these purely financial matters the Secretary of the Treasury should control, and that it must be the duty of the Secretary of Commerce to deal through the Secretary of the Treasury in handling purely financial matters but, after all, put the actual transaction up to the Secretary of Commerce so that the man in the case which was stated by Mr. Warren will know who to deal with? He does not deal with the Treasury Department; he deals with the Department of Commerce. He goes to the Department of Commerce, and if it be a financial transaction, make it the duty of the Department of Commerce to get ruling on that matter from the Secretary of the Treasury, and let the Secretary of the Treasury be supreme in that matter. Would not that be possible?

Mr. THURMAN. But are you going to do that if you have a transaction which involves the purchase of goods, and at the same time a payment of money through a bank? That may be authorized by the Secretary of Commerce, and the Secretary of the Treasury may say "No; the payment can not go through this bank."

The CHAIRMAN. I am asking if it would not be feasible to fix such an amendment?

Mr. ELLIOTT. I will tell you what is the objection, if I catch your idea correctly. I may make the action of either Secretary purely administrative, if you put the discretion in one. We will assume that the same transaction arises, with the same facts presented to the Secretary of Commerce, and he might meet those facts viewing it from the standpoint of commerce purely, and say, "I think this shipment ought to be stopped. It ought not to be permitted to go forward." I

mean in case of a shipment, in case of money. The stopping of that shipment might affect, in its ramifications, a dozen other transactions, and cause very serious embarrassment.

Senator FERNALD. Does not every commercial transaction necessary involve some financial transaction?

Mr. WARREN. It may.

Senator FERNALD. So that every single case might be brought to these two gentlemen?

Mr. WARREN. Yes.

Senator FERNAND. It should be controlled by whichever one can handle it best. And also every transaction of a financial nature may involve a commercial transaction?

Mr. ELLIOTT. This section furnishes the machinery for getting at information that you have not got now. Suppose you leave out section 18 and do not give that power to the Secretary of the Treasury at all, and leave the rest as it stands, with the provision in there that the Secretary of Commerce shall appoint such investigators, examiners, etc., as he may deem necessary for the purposes of the act; then how are you going to get this information? Are you going to send the investigators of the Secretary of Commerce into the banks to run down those foreign transactions, or——

Mr. THURMAN. No; we are going to the Treasury Department to get that.

Mr. ELLIOTT. But you do not provide for going to the Treasury Department.

Mr. THURMAN. That is a very simple matter to provide.

Mr. ELLIOTT. If you concede that, that the Secretary of the Treasury should make these investigations, and he makes an investigation and decides that if the transaction is consummated it may result in an enemy getting this money, now, according to that theory, he would then report to the Secretary of Commerce and say, "Now, what are you going to do? Here are your facts. I am acting as a bureau for you, and I have got these facts. What are you going to do?" Then the Secretary of Commerce comes in to determine what should be done in this financial transaction, which is purely financial at that time.

Mr. WARREN. It is a financial transaction. It is a payment.

Mr. THURMAN. You are stopping intercourse between all the executive departments.

Mr. ELLIOTT. At that point it has gotten to be purely a financial transaction. Now, if you are going to vest in the Secretary of Commerce authority to say what effect this act should have, I say that you have got your dual control over your financial matters. Under the amendment, on the other hand, as drawn, you confine all the administrative functions of the Secretary of the Treasury to purely financial matters. He does not have anything to do with or have any jurisdiction over the matters until they reach that point. If they do reach that point——

Senator FERNALD. But almost every transaction might be considered a financial matter.

Mr. ELLIOTT. None of us know what form these transactions are going to take.

Senator FERNALD. No.

Mr. ELLIOTT. If you are shipping some wheat to a neutral country that is ultimately destined to go to Germany or Austria, there may be no financial transaction in the banks here at all. Very frequently those transactions are handled through other countries. There would not be any question of the party here doing anything through our banks at all. The only time that the Secretary of the Treasury would step in would be when the banks of the United States, or some one under his jurisdiction, was affected. Then he would have control.

Mr. WARREN. Is not this true, that every single commercial transaction, the payment for which is to be settled here, involves a financial transaction? Is not that true?

Mr. ELLIOTT. Yes; if the payment is to be made here, of course.

Mr. WARREN. Yes; if the payment is to be made here, it involves a financial transaction; so that every commercial transaction which involves a financial transaction becomes a financial transaction within the purview of this bill?

Mr. ELLIOTT. Of course, every transaction is a financial transaction which becomes a financial transaction; that is admitted. [Laughter.]

Mr. THURMAN. And therefore the jurisdiction over it is put in the Treasury Department.

Mr. ELLIOTT. I am unable to see—on the question of the custodian of alien property, you will recognize that all financial matters are put under the jurisdiction of the Secretary of the Treasury, by providing that all the money which is turned over shall be turned over to the Secretary of the Treasury for investment.

Mr. THURMAN. I want to know where the dividing line would be in the case of a transaction which involved payment to a bank. Now, goods are delivered under the authority issued by the Secretary of Commerce. Where does the financial end of the transaction begin? Who is going to determine those things?

Mr. ELLIOTT. That question would not arise at all. If the goods had been delivered under the license of the Secretary of Commerce, that would make the act legal.

Mr. THURMAN. As it is written, I think it clearly could arise.

Mr. ELLIOTT. That is a question of construction of that section.

Senator VARDAMAN. I understand, I think, quite clearly Judge Elliott's position, and the thing he wants to accomplish I think would facilitate the public service, but the difficulty that we encounter—those of us who are trying to frame the bill—is to write it just so as to accomplish what Judge Elliott desires without doing something that we do not want to do; for instance, to bring about that conflict. Of course that has been fought over so much I can not agree with the Judge that his amendment means only what he has intended that it shall mean.

Mr. ELLIOTT. Then, I think that this amendment ought to be amended to cover that.

Senator VARDAMAN. Yes; and I think that we will be able to do that.

The CHAIRMAN. Do you suppose, gentlemen, that you could by further conference among yourselves get this into better shape? This completes the hearing, so the committee will now adjourn.

Mr. THURMAN. I would prefer to leave it with the committee.

[Whereupon at 5:20 o'clock p.m. the subcommittee adjourned subject to the call of the chairman.]

B. Supplement to Second Liberty Bond Act

1. Partial Text of Act

40 Stat. 966, 12 U.S.C. 95a, 50 U.S.C. App. 5, Approved September 24, 1918

* * * * *

SEC. 5. That subdivision (b) of section 5 of the Trading with the Enemy Act be, and hereby is, amended to read as follows:

(b) That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange and the export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, transfers of credit in any form (other than credits relating solely to transactions to be executed wholly within the United States), and transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country, whether enemy, ally of enemy, or otherwise, or between residents of one or more foreign countries, by any person within the United States; and, for the purpose of strengthening, sustaining and broadening the market for bonds and certificates of indebtedness of the United States, of preventing frauds upon the holders thereof, and of protecting such holders, he may investigate and regulate, by means of licenses or otherwise (until the expiration of two years after the date of the termination of the present war with the Imperial German Government, as fixed by his proclamation), any transactions in such bonds or certificates by or between any person or persons: *Provided*, That nothing contained in this subdivision (b) shall be construed to confer any power to prohibit the purchase or sale for cash, or for notes eligible for discount at any Federal Reserve Bank, of bonds or certificates of indebtedness of the United States; and he may require any person engaged in any transaction referred to in this subdivision to furnish, under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed."

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2. Conference Report (Excerpts)

Second Liberty Bond Act Amendments, House Report No. 805, 65th Congress, 2d Session, Conference Report To Accompany H.R. 12923, September 23, 1918 (Excerpts)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12923) to supplement the second liberty-bond act, as amended, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

* * * * *

Amendment numbered 3: That the House recede from its disagreement of the Senate numbered 3, and agree to the same with an amendment as follows:

In lieu of the matter stricken out by said amendment insert the following:

SEC. 5. That subdivision (b) of section 5 of the trading-with-the-enemy act be, and hereby is, amended to read as follows:

"(b) That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange and the export, hoarding, melting, or earmarkings of gold or silver coin or bullion or currency transfers of credit in any form (other than credits relating solely to transactions to be executed wholly within the United States), and transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country, whether enemy, ally of enemy, or otherwise, or between residents of one or more foreign countries, by any person within the United States; and for the purpose of strengthening, sustaining, and broadening the market for bonds and certificates of indebtedness of the United States, of preventing frauds upon the holders thereof, and of protecting such holders, he may investigate and regulate, by means of licenses or otherwise (until the expiration of two years after the date of the termination of the present war with the Imperial German Government, as fixed by his proclamation), any transaction in such bonds or certificates by or between any person or persons: Provided, That nothing contained in this subdivision (b) shall be construed to confer any power to prohibit the purchase or sale for cash, or for notes eligible for discount at any Federal reserve bank, of bonds or certificates of indebtedness of the United States; and he may require any person engaged in any transaction referred to in this subdivision to furnish, under oath, complete information relative thereto including the production of any books of account, contracts, letters or other

papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed."

And the Senate agree to the same.

CLAUDE KITCHIN,
HENRY T. RAINEX,
LINCOLN DIXON,
J. W. FORDNEY,
J. HAMPTON MOORE,

Managers on the Part of the House.

F. M. SIMMONS,
HOKE SMITH,
H. C. LODGE,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

* * * * *

Amendment No. 3: The bill as it passed the House amended the trading-with-the-enemy act by giving the President authority to investigate, regulate, or prohibit any transaction in bonds or certificates of indebtedness of the United States and the hoarding and melting of gold. The Senate eliminated this provision. The House recedes from its disagreement to the Senate amendment with an amendment giving the President the authority to investigate, regulate, or prohibit the hoarding or melting of gold, and also to investigate and regulate, by means of license or otherwise (until the expiration of two years after the termination of the present war), for the purpose of strengthening, sustaining, and broadening the market for bonds and certificates of indebtedness of the United States, or preventing frauds upon the holders thereof, and of protecting such holders, any transactions in bonds or certificates of indebtedness of the United States by or between any person or persons. However, this power is limited so that this section shall not be construed to confer any power to prohibit the purchase or sale for cash, or for notes eligible for discount at any Federal reserve bank, of bonds or certificates of indebtedness of the United States.

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3. House Report (Excerpts)

Supplementary Bond Legislation, House Report No. 778, 65th Congress, 2d Session, To Accompany H.R. 12923, September 12, 1918 (Excerpts)¹

* * * * *

AMENDMENT TO TRADING-WITH-THE-ENEMY ACT

Section 5 of this bill amends clause (b), section 5 of the trading-with-the-enemy act so as to empower the President to investigate, regulate, and prohibit, by means of license or otherwise, transactions in bonds or certificates of indebtedness of the United States and the hoarding or melting of gold or silver, in addition to the powers already granted the President under such section.

* * * * *

The letter of the Secretary of the Treasury with reference to this bill is hereto appended and made a part of this report.

TREASURY DEPARTMENT.

Washington, September 5, 1918.

Hon. CLAUDE KITCHIN.

Chairman, Ways and Means Committee, House of Representatives, Washington, D.C.

DEAR MR. KITCHIN:

* * * * *

I believe it is highly desirable at this time that the President should be empowered to investigate, regulate, or prohibit not only the export or ear-marking of gold or silver coin or bullion or currency, but also the hoarding or melting thereof.

Cordially, yours,

W. G. McADOO.

¹ Senate Report No. 571 of September 17, 1918, is identical to House Report No. 778.

C. The Knox Resolution

1. Text of Act

41 Stat. 1359, 50 U.S.C. 33, Approved March 3, 1921

JOINT RESOLUTION Declaring that certain Acts of Congress, joint resolutions, and proclamations shall be construed as if the war had ended and the present or existing emergency expired

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the interpretation of any provision relating to the duration or date of the termination of the present war or of the present or existing emergency, meaning thereby the war between the Imperial German Government and the Imperial and Royal Austro-Hungarian Government and the Government and people of the United States, in any Acts of Congress, joint resolutions, or proclamations of the President containing provisions contingent upon the duration or the date of the termination of such war or of such present or existing emergency, the date when this resolution becomes effective shall be construed and treated as the date of the termination of the war or of the present or existing emergency, notwithstanding any provision in any Act of Congress or joint resolution providing any other mode of determining the date of such termination. And any Act of Congress, or any provision of any such Act, that by its terms is in force only during the existence of a state of war, or during such state of war and a limited period of time thereafter, shall be construed and administered as if such war between the Governments and people aforesaid terminated on the date when this resolution becomes effective, any provision of such law to the contrary notwithstanding; excepting, however, from the operation and effect of this resolution the following Acts and proclamations, to wit: Title 2 of the Act entitled "The Food Control and District of Columbia Rents Act," approved October 22, 1919 (Forty-first Statutes, page 297), the Act known as the Trading with the Enemy Act, approved October 6, 1917 (Fortieth Statutes, page 411), and all amendments thereto, and the First, Second, Third, and Fourth Liberty Bond Acts, the Supplement to the Second Liberty Bond Act, and the Victory Liberty Loan Act; titles 1 and 3 of the War Finance Corporation Act (Fortieth Statutes, page 506) as amended by the Act approved March 3, 1919 (Fortieth Statutes, page 1313), and Public Resolution Numbered 55, Sixty-sixth Congress, entitled "Joint resolution directing the War Finance Corporation to take certain action for the relief of the present depression in the agricultural sections of the country, and for other purposes," passed January 4, 1921: also the proclamations issued under the authority conferred by the Acts herein expected from the effect and operation of this resolu-

tion: *Provided, however*, That nothing herein contained shall be construed as effective to terminate the military status of any person now in desertion from the military or naval service of the United States, nor to terminate the liability to prosecution and punishment under the selective service law, approved May 18, 1917 (Fortieth Statutes, page 76), of any person who failed to comply with the provisions of said Act, or of Acts amendatory thereof: *Provided further*, That the Act entitled "An Act to amend section 3, title 1, of the Act entitled 'An Act to punish acts of interference with foreign relations, and neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes,' approved June 15, 1917 (Fortieth Statutes, page 217), and for other purposes," approved May 16, 1918 (Fortieth Statutes, page 553), be, and the same is hereby, repealed, and that said section 3 of said Act approved June 15, 1917, is hereby revived and restored with the same force and effect as originally enacted.

Nothing herein contained shall be held to exempt from prosecution or to relieve from punishment any offense heretofore committed in violation of any Act hereby repealed or which may be committed while it remained in force as herein provided.

Approved, March 3, 1921.

2. House Debate (Excerpts)

60 Cong. Rec. 291-293, December 13, 1920

* * * * *

Mr. DEWALT. Will the gentleman be kind enough during the course of his remarks, if he thinks it of sufficient importance, to explain what provisions, if any, of the trading with the enemy act will not be suspended? I have special reference to this clause of the trading with the enemy act referring to the custodianship of alien property.

Mr. VOLSTEAD. I assume that the gentleman knows more about the trading with the enemy act than I do, because he is a member of the committee that reported it.

Mr. DEWALT. That might be a violent assumption, but what I am trying to get is information upon the subject as to whether or not the language of the trading with the enemy act is to be suspended or repealed, or only special portions thereof repealed, and I have special reference to the provisions of the act regarding the custodianship of alien property.

Mr. VOLSTEAD. This does not affect the trading with the enemy act; that act is expressly excepted.

Mr. DEWALT. Then that feature would be in effect?

Mr. VOLSTEAD. It would remain in effect, because this does not affect it. It is excepted from the operation of this resolution.

Mr. DEWALT. Has the committee—I ask merely for information, not out of curiosity—inquired specifically whether or not it would be wise to repeal some portions of the trading with the enemy act and still have some of them remain in force, especially referring to the custodianship of alien property?

Mr. VOLSTEAD. It has not. It is generally understood that it is necessary to retain at least some portions of it, because a good deal of our trade with Germany and other enemy countries is carried on under the provisions of that act.

* * * * *

Mr. BRITTEN. I am interested in the exception the committee has made in the act known as the trading with the enemy act. How will that exception affect the commercial relations between America, Germany, and Austria, for instance?

Mr. VOLSTEAD. Leave it undisturbed.

Mr. BRITTEN. I am quite sure the committee has made a very thorough investigation of this bill before presenting it to the House; but will not that in many directions give our competitors in Canada, or in England, or in other parts of the world, an advantage in central European trade?

Mr. VOLSTEAD. I do not think so. It has nothing to do with that trade.

Mr. BRITTEN. The trading with the enemy act prevented trading with the enemy. We are carrying on certain commerce with the enemy now.

Mr. VOLSTEAD. We are trading with the enemy now as though there was not any war.

Mr. BRITTEN. What is the reason for leaving it in the bill?

Mr. VOLSTEAD. Because it is under the provisions of this law that regulations are made under which that trade is carried on. If you repeal it, the war would exist technically, and you would not be able to deal with them without a treaty. Under the regulations prescribed by the Treasury Department trading is going on.

Mr. FLOOD. On a permit from the President.

Mr. BRITTEN. So, there are no restrictions now?

Mr. VOLSTEAD. I would not care to say as to that. We do not want to repeal it until we get something in place of it.

Mr. BRITTEN. Can the gentleman tell the House just what restrictions are still in existence as affecting trade between this country and central Europe?

Mr. VOLSTEAD. I can not. My understanding is that the trade is carried on freely, so far as England, Germany, Austria, and other countries are concerned.

Mr. BRITTEN. If that is correct, why is it necessary to except—

Mr. VOLSTEAD. There is a necessity for excepting it, because it is carried on under the provisions of this act.

Mr. FLOOD. The President issues his permit under the provisions of this act, and he might revoke it. If this act is repealed, a permit would be revoked.

Mr. VOLSTEAD. Yes; and he would not have the power to issue permits.

Mr. BRITTEN. You are leaving the trading with the enemy entirely in the hands of the President?

Mr. VOLSTEAD. There is not much danger. That is the best we can do.

* * * * *

Mr. GARD. The so-called trading with the enemy act is one to which I would call the attention of the committee in the most sensible way, because I take it that the United States at this time and in the months to come is seriously to be engaged in the business of exporting its products, and in so far as the retention of war statutes now is concerned, it seems to me that it is the duty of this continuing legislative body to so enact legislation that we may have, for all intents and purposes, the right to export without the embarrassment and the harassment of war statutes. The trading with the enemy act provides in effect that there can be no trading with the enemy in the late war with the Central Powers until there be a license or proclamation, I believe, by the President of the United States.

The only things which I can see which are salutary in the retention of the trading with the enemy act is that provision which concerns the custody of the property held by the Alien Property Custodian and the protection against wholesale merchandise dumping. There may be others, because I am not as familiar with this act in its entirety as I probably should be; but I do realize that there are certain elements of property, real or personal, still is the control of the Alien Property

Custodian, and of course a certain part of this act necessarily should be retained a reasonable time, or until those matters could be definitely settled.

Mr. LONGWORTH. Mr. Speaker, will the gentleman yield?

Mr. GARD. I yield to my colleague.

Mr. LONGWORTH. My colleague realizes, does he not, that the trading with the enemy act is now the sole bar to the wholesale dumping into the American market of German goods, notably dyestuffs, coal-tar products, and so forth, and the only safeguard absolutely to the existence of the new chemical industry in this country?

Mr. GARD. I am glad to have the gentleman's word for it. I am sure I should not subscribe to anything which would bring about a result adverse to American interests.

Mr. LONGWORTH. There can be no question about the result, I will say to my colleague.

Mr. GARD. The act, however, in its entirety is one associated with war and the continuance of war, and I have suggested that it be so modified at least as to provide for the exportation of our products without necessary license and without hindrance.

* * * * *

The following is a list of the names of the persons who have been elected to the office of the President of the United States since the year 1789.

1789 George Washington
1793 Thomas Jefferson
1797 John Adams
1801 James Madison

1809 James Monroe
1817 James Monroe
1821 James Monroe
1825 James Monroe

1829 Andrew Jackson
1837 Andrew Jackson
1841 Andrew Jackson
1845 Andrew Jackson

1849 Zachary Taylor
1853 Zachary Taylor
1857 Zachary Taylor
1861 Zachary Taylor

1865 Abraham Lincoln
1869 Abraham Lincoln
1873 Abraham Lincoln
1877 Abraham Lincoln

1881 Rutherford B. Hayes
1885 Rutherford B. Hayes
1889 Rutherford B. Hayes
1893 Rutherford B. Hayes

1897 William McKinley
1901 William McKinley
1905 William McKinley
1909 William McKinley

1913 Woodrow Wilson
1917 Woodrow Wilson
1921 Woodrow Wilson
1925 Woodrow Wilson

1929 Calvin Coolidge
1933 Franklin D. Roosevelt
1937 Franklin D. Roosevelt
1941 Franklin D. Roosevelt

1945 Franklin D. Roosevelt
1949 Dwight D. Eisenhower
1953 Dwight D. Eisenhower
1957 Dwight D. Eisenhower

1961 John F. Kennedy
1965 John F. Kennedy
1969 John F. Kennedy
1973 John F. Kennedy

1977 Jimmy Carter
1981 Ronald Reagan
1985 Ronald Reagan
1989 Ronald Reagan

1993 Bill Clinton
1997 Bill Clinton
2001 George W. Bush
2005 George W. Bush

2009 Barack Obama
2013 Barack Obama
2017 Donald Trump
2021 Donald Trump

2025 Joe Biden
2029 Joe Biden
2033 Joe Biden
2037 Joe Biden

2041 Joe Biden
2045 Joe Biden
2049 Joe Biden
2053 Joe Biden

2057 Joe Biden
2061 Joe Biden
2065 Joe Biden
2069 Joe Biden

D. Emergency Banking Relief Act

1. Partial Text of Act

48 Stat. 1, 12 U.S.C. 95a, 50 U.S.C. App. 5, Approved March 9, 1933

AN ACT To provide relief in the existing national emergency in banking, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that a serious emergency exists and that it is imperatively necessary speedily to put into effect remedies of uniform national application.

TITLE I

SECTION 1. The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the Act of October 6, 1917, as amended, are hereby approved and confirmed.

SEC. 2. Subdivision (b) of section 5 of the Act of October 6, 1917 (40 Stat. L. 411), as amended, is hereby amended to read as follows:

"(b) During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person engaged in any transaction referred to in this subdivision to furnish under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term 'person' means an individual, partnership, association, or corporation."

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2. Senate Debate (Excerpts)

77 Cong. Rec. 58-60, 66, March 9, 1933

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Mr. GLASS. * * * About the only really arbitrary provision of the bill is that provision which authorizes the President, under the act of October, 1917, to embargo gold payments and to penalize the hoarding of gold and currency. I do not know who there is with wit or wisdom enough to define hoarding. Under that provision of the bill any Senator who drew his salary 3 or 4 days ago and kept it in his pocket might be regarded as a hoarder and fined \$10,000 or put in the penitentiary for 10 years if the act should be administered in that unwise way.

But there is no difficulty in the world about following gold withdrawals to their destination and penalizing those people who are so unpatriotic as to accentuate this desperate situation by undertaking to deplete the gold of the banks. The banks themselves should have done that long ago. They have not lifted their little fingers to help the situation. They have swooped down here to Washington to have the Federal Government help them instead of helping themselves and helping the business of the country. Every man who stands behind a bank counter and is worthy of the name of banker knows perfectly well, when his customer comes in to rake gold over the counter, what he wants with it. He knows that ordinarily that customer does not want it for business purposes, but he wants to hide it away and hoard it. Under that provision of the bill I anticipate very little difficulty in tracking the gold down and in punishing, by fine and imprisonment if necessary, people who thus hoard their gold.

So largely with currency. Every banker ought to know the business of the patrons of his bank. They do in Great Britain. They do in Canada. In Canada at the beginning of the fiscal year every patron of a bank, every business man, has to file with the bank his budget for the year and his probable requirements in credit and currency. If during the year he undertakes to exceed his requirements as filed, he has to give to the banker a reason for it.

"Little banks"? Little corner grocerymen who run banks, who get together \$10,000 or \$15,000, as it may be, and then invite the deposits of their community, and at the very first gust of disaster topple over and ruin their depositors! What we need in this country are real banks and real bankers. If a struggling young man wants to get a place here in Washington as a stenographer or typist, he has to have a civil-service examination; and yet we have people all over the country from one end to the other calling themselves "bankers." and all they know is how to shave notes at an excessive rate of interest. They are not bankers.

Mr. President, I do not want to delay the consideration and enactment of this bill into law. I want to refer to just one further aspect of the problem. I have never known in the history of this country, except in time of war, such nonpartisan concert, such a desire upon the part of every reasonable man to cooperate and to relieve the situation. At the White House last night we had assembled there the leading representatives of both political parties in both Houses of Congress. With one voice they all agreed, almost if not quite without qualification, in saying that they would unite to enact this legislation before midnight tonight, and that if there might be discovered in it any defects, they should be remedied later. But let us do today what will result in the opening tomorrow or within the next few days of 5,000 member banks of the Federal Reserve System, which banks in turn will give out their facilities in an indirect way to their correspondent nonmember State banks and thus help the whole banking situation in the country.

There are provisions in the bill to which in ordinary times I would not dream of subscribing, but we have a situation that invites the patriotic cooperation and aid of every man who has any regard for his country and for its business interests. I appeal to you, Senators, not to load it down with amendments. Let us accept the bill, almost if not unanimously passed by the House of Representatives, and not alter it and have to go into controversial conference that might take us beyond the time when aid is imperatively needed.

* * * * *

Mr. REED. Mr. President, in common with other Senators, I have found in the bill certain passages which I dislike and which do violence to my belief, but I am so impressed with the necessity of the case as it has been told us by the Senator from Virginia [Mr. Glass] that I am not even going to mention those things to which I take exception. That can be corrected later when time is not so precious as it at this moment. It suffices to say, Mr. President, that if this bill shall pass tonight, then every depositor in every one of the thousands of banks which will reopen tomorrow will know that by virtue of the provisions of the bill, currency is available to his bank which will be sufficient to pay every penny of every deposit in every one of the member banks that open. The resulting confidence will be so great that I shall feel amply justified in having postponed the relatively petty criticisms which I would otherwise be impelled to make at this moment.

Mr. ROBINSON of Indiana. Mr. President, I note on the first page of the bill language that seems to me to be much broader than will be necessary. I read section 1, title 1, line 7:

SECTION 1. The actions, regulations, rules, licenses, orders, and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the act of October 6, 1917, as amended, are hereby approved and confirmed.

Mr. President, as I read this section, I assume it to mean that in matters of this kind the Congress will practically abdicate all authority and, for that matter, all its duties in the future, because it specifically approves and confirms everything, all the "actions, regulations, rules, licenses, orders, and proclamations" that may be promulgated,

made, or issued by either the President or the Secretary of the Treasury heretofore or hereafter.

It seems to me that the words "or hereafter" could very well come out of that section. I assume that Congress certainly does not desire to confirm and approve everything the President may do in the future as well as what he has done in the past.

Mr. NORRIS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Nebraska?

Mr. ROBINSON of Indiana. I yield.

Mr. NORRIS. I think most of us will agree that under any ordinary circumstances the words the Senator has indicated should come out, but the section, as I look at it is not really as bad as it appears on its face. All of those acts, whether done now or whether they are going to be done in the future, come under section 5 of the act of October 6, 1917.

Mr. ROBINSON of Indiana. Then I would say to the Senator the authority is provided now, and the proclamations which have been issued have been issued under that particular law.

Mr. NORRIS. The President could issue other proclamations.

Mr. ROBINSON of Indiana. So long as they are pursuant to law.

Mr. NORRIS. But they would have to be under that particular section, so that it is not so broad. I was shocked when I first read the words, but if the Senator will follow the language and notice the reference, the action must be taken under section 5 of the act of October 6, 1917, which gives to the President certain authority. So I do not believe the provision is nearly so bad as it looks on its face.

Mr. REED. Mr. President, will the Senator yield to me?

Mr. ROBINSON of Indiana. I yield.

Mr. REED. The Trading With the Enemy Act is today of doubtful validity; no one knows definitely whether it was repealed by the Knox resolution. It is reenacted by section 2 of this bill. Section 2 as it stands now reenacted would have authorized all that President Roosevelt has done. Of course, what we are doing is merely ratifying those actions that he has taken and that would have been valid if section 2 had been in effect.

The inclusion of the words "or hereafter" is not good draftsman-ship; that we all know; it is surplusage, because we do not confirm and approve any future act unless it is in compliance with section 5 of the act of October 6, 1917, as amended.

Mr. ROBINSON of Indiana. And that is already authorized.

Mr. REED. That is already authorized; it is pure surplusage.

Mr. ROBINSON of Indiana. Would it not be just as well to eliminate the words "or hereafter"?

Mr. REED. They are surplusage, as I say.

Mr. ROBINSON of Indiana. If that is all it amounts to, I shall not insist on my point.

Mr. REED. If President Roosevelt should go beyond the section of the Trading With the Enemy Act, the approval we are giving him would be of no effect.

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Mr. SHIPSTEAD. Mr. President, I should like to ask a question of the Senator who has charge of the bill. The bill evidently is aimed, in

part, to reach those who hoard gold. I find nothing in the bill to indicate that it will reach those who have hoarded gold by taking it abroad and buying foreign exchange. I should like to know if there is any provision in the bill to enable the Secretary of the Treasury, when he compels people in the United States who have gold or gold certificates to turn them over to the Treasury, also to compel them to turn over their foreign exchange which they have bought within the last few months, shipping their gold and their capital and their resources out of the country for the purpose of hoarding in foreign countries?

Mr. FLETCHER. Mr. President, I can not see how any one can ship gold unless he can get possession of it somewhere, somehow. Of course, this applies to that very step. One must first get control of the gold before he can ship it.

Mr. GLASS. Mr. President, if the Senator will read section 2 of the bill he will see that the President is there authorized textually, "through any agency that he may designate, or otherwise, to investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise any transaction in foreign exchange." They will be the first people the Treasury officials will go after.

Mr. ROBINSON of Arkansas. Mr. President, the answers, in my judgment, are not responsive to the questions asked by the Senator from Minnesota. The Senator from Minnesota asked in effect whether the penal provisions of the bill relating to hoarding are retroactive. They are not, as I interpret the proposed statute, and I do not believe they could be made retroactive. The provision in section 2 is directed against future acts.

Mr. SHIPSTEAD. What about section 3, subsection (n), on page 3, which reads in part:

(n) Whenever in the judgment of the Secretary of the Treasury such action is necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, may require any or all individuals, partnerships, associations, and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations, and corporations.

Why not foreign exchange?

Mr. ROBINSON of Arkansas. I know of no reason why foreign exchange should not have been included. I think it is comprehended, however, in section 2. Of course, the process of hoarding may be a continuing act, and may constitute an offense when the initial act took place some time ago; but with respect to the shipping of gold abroad, I do not see, if the act occurred over 3 months ago, how it could now be penalized.

Mr. SHIPSTEAD. I should like to ask the Senator from Arkansas what is the difference between buying foreign exchange during the last 6 weeks or taking currency out of a bank and putting it in a safety-deposit box?

Mr. ROBINSON of Arkansas. As I understand, under present conditions no effort has been made to penalize hoarding.

Mr. SHIPSTEAD. Heretofore.

Mr. ROBINSON of Arkansas. To penalize hoarding heretofore. Now the effort is to prevent it in the future and to uncover funds that are in hoarding.

Mr. SHIPSTEAD. Does not the Senator think that funds sent abroad or invested in foreign exchange should be uncovered?

Mr. ROBINSON of Arkansas. I think they can be uncovered under this provision, but I do not see how they may be reached if they are out of the jurisdiction of the court.

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3. House Debate (Excerpts)

77 Cong. Rec. 76, 78-80, March 9, 1933

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NATIONAL BANKING SYSTEM

Mr. BYRNS. Mr. Speaker, I ask unanimous consent for the immediate consideration of H.R. 1491, and in its consideration that there shall be 40 minutes of debate, one half of such time to be controlled by the gentleman from Alabama [Mr. Steagall] and the other half by the gentleman from Pennsylvania [Mr. McFadden]; that at the conclusion of the debate the previous question shall be considered as ordered on the bill to final passage.

Now, Mr. Speaker, may I make this statement, with the indulgence of the House, before this request is submitted: The President in his message has given the very best of reasons why this request should be agreed to. The Senate is now awaiting the action of the House upon this particular bill.

It is of the most extreme importance that this bill, introduced a few moments ago by the gentleman from Alabama, carrying out the recommendations of the President preparatory to opening the banks of the country on tomorrow shall be adopted and become a law today.

Unless this request is granted there is, of course, a possibility that this legislation may not become a law today, and no one in this House or elsewhere can know just what the effect will be tomorrow.

Mr. Speaker, the people of the United States have chosen the President as the leader not only of his party but as the leader of the Nation. To him they are looking for relief. He is their only hope. They have confidence in him and are looking to him alone to restore this country to normal prosperity, and I submit that we, as Members of Congress, owe it to the people of this country and owe it to him upon whom rests this great responsibility, to give him our support in this particular matter and at this particular hour.

I trust, therefore, that there will be no Member of this House on either side of the Chamber who will object to this unanimous-consent request.

If we were acting under the rules of the House and it were suspension day, the Speaker could recognize anyone to move to suspend the rules and pass this bill with a limitation of 40 minutes' debate. This request gives 40 minutes' debate on this bill. I trust, therefore, under the peculiar circumstances and under the serious situation which confronts the country, we will agree to take this bill up now, pass it, send it to the Senate so it may become a law this evening, and thus enable the President of the United States to open the banks tomorrow and give not only the banks but business interests and the people of this country relief.

(247)

Mr. SNELL. Mr. Speaker, reserving the right to object, I well appreciate the importance of what the gentleman from Tennessee has said. Of course it is entirely out of the ordinary to pass legislation in this House that, as far as I know, is not even in print at the time it is offered. I do not know that it is possible to distribute copies of the bill to the Members of the House, but that is not the question before us here at the present time. The house is burning down, and the President of the United States says this is the way to put out the fire. [Applause.] And to me at this time there is only one answer to this question, and that is to give the President what he demands and says is necessary to meet the situation.

I do not know that I am in favor of all the details carried in this bill, but whether I am or not, I am going to give the President of the United States today his way. He is the man responsible, and we must at this time follow his lead. I hope no one on this side of the aisle will object to the consideration of the request. [Applause.]

Mr. BANKHEAD. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. BYRNS. I yield.

Mr. BANKHEAD. As far as I am advised, the House has not yet adopted rules of procedure for this Congress. As I understand it, unless objection is raised the ordinary proceedings governing the House during the Seventy-second Congress will prevail in the consideration of this unanimous-consent request?

The SPEAKER. The gentleman is correct.

Mr. O'CONNOR. Mr. Speaker, will the gentleman yield?

Mr. BYRNS. I yield.

Mr. O'CONNOR. Just to clear up the parliamentary situation, as I understand the request of the gentleman from Tennessee, it involves the consideration of this bill in the House as though the rules of the Seventy-second Congress had been adopted, and, as it were, under suspension of the rules; and the bill will not be subject to amendment. Is this correct?

Mr. BYRNS. The bill will not be subject to amendment.

Mr. STEAGALL. That is the inquiry I wanted to make. I wanted it clearly understood.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

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Mr. STEAGALL. Mr. Speaker, in view of the supreme emergency confronting the Congress and the country, it was thought that the House should act upon the legislation before us without the delay incident to the organization of the Committee on Banking and Currency to which the legislation would be referred for consideration under the usual procedure of the House.

Members of the House, including the distinguished leader and the beloved Speaker of the House, and Members of the Senate were called into conference last evening by the Chief Executive of the Nation and this bill was discussed by him and the request made that the measure be expedited in every possible manner. In response to this request and in response to the demands of the hour, we have adopted this unusual method of consideration.

The first provision of the bill validates and maintains the authority exercised by the President of the United States in the proclamation relating to the banks of the Nation issued by the President on March 6, 1933.

Section 2 confers upon the President the powers bestowed under the act of October 6, 1917, regardless of whether or not the country is involved in war.

* * * * *

Mr. LUCE. It is, of course, out of the question, Mr. Speaker, that any man can grasp the full meaning of that bill by listening to its reading, having had no intimation whatever beforehand of what it contains.

I, too, desire to help the administration meet this crisis. Whenever it may be necessary I will waive all opportunities of discussion.

Perhaps it was necessary in this instance to keep us on the minority side who have some acquaintance with this subject in the dark until the bill was produced. I will not intimate that there was intentional refraining from consultation with Members of this House who now for many years have lived with these questions and who ought to know something about them. The majority leaders have brought us a bill on which I myself am unable to advise my colleagues, except to say that this is a case where judgment must be waived, where argument must be silenced, where we should take matters without criticism lest we may do harm by delay. [Applause.]

Let me illustrate the embarrassments that come from lack of information. There is in this bill a provision for preferred stock of banks. Imagine my own situation, confronted by the fact that not 4 hours ago I put into the box there a bill with provision for that very purpose, not having the slightest idea that there had been discussion of this matter. I do not want to be impatient, I do not want to seem even in the slightest disturbed, but I do think, and I say to my friends of the majority, that if they desire us to go along in these things, if they desire our sympathetic cooperation—we want to give it—let the desired results be accomplished by ways that will not arouse in the breast of any man the thought that he has not had a fair show, the feeling that he has not had opportunity to present his views, the feeling that he has had no chance to pass criticism, possibly helpful.

Let us forget what has happened in this instance, let us not allow it to remain in our minds against anyone. Doubtless the pressure of the situation made quick action imperative. I am not going to protest against it. I am going to ask my Republican friends to accept my own position and not begrudge any help to the President of the United States in this emergency. [Applause.]

There are in this bill some things that if they could have been discussed by the Banking and Currency Committee might have been reshaped, perhaps to the public advantage, but better have it go along as it is, without any attempt at change, without any repining, without any complaint. Let it go now, remembering that this House is to continue in session, at least off and on, for some time; and if it proves that errors have been made in the hasty drafting of the bill, we shall have the opportunity, by law, to make corrections—provided the opportunity is given to us, provided this procedure is not repeated except when absolutely necessary, provided the Committee on Banking

and Currency is called together and given more opportunity than it had in the previous session to consider the great problems confronting the Nation, provided these problems are laid before the committee speedily, provided that we there may voice our matured views, express our friendly criticisms, and harmoniously work out together the results that shall be best for the country. [Applause.]

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E. Gold Reserve Act of 1934

1. Partial Text of Act

48 Stat. 343, 12 U.S.C. 213, Approved January 30, 1934

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Sec. 13. All actions, regulations, rules, orders, and proclamations heretofore taken, promulgated, made or issued by the President of the United States or the Secretary of the Treasury, under the Act of March 9, 1933, or under section 43 or section 45 of title III of the Act of May 12, 1933, are hereby approved, ratified, and confirmed.

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2. House Debate (Excerpts)

78 Cong. Rec. 991-992, 1010-1011, January 20, 1934

* * * * *

Mr. BEEDY. Mr. Chairman, although I have served here nearly 14 years, I have never become hardened to the point of being able to face without some perturbation of mind the fact that many times when serious matters are being discussed there are hurled across this aisle political epithets and a great deal of political sophistry. I was disturbed today when at the outset of this discussion the gentleman from New York rose and said, to the apparent delight of the galleries, that the Republican Party had an idea that the Federal Government was far removed, a thing apart, on the one hand, and that over here were the people who ought not to have anything to do with it, but that the Democratic Party believed that the Federal Government belonged to the American people. Of course, good Democratic partisans applauded that statement.

Now, let us be fair. There is not a man in this House who took the oath of office who does not have before him in these tragic hours of the life of this Republic the desire to do his sworn duty, regardless of political lines, in the way that will accrue to the benefit of the whole people of the Nation. I want the RECORD clear that there is on this side of the aisle a small group of men who in the hour of their defeat still accept their responsibility seriously and are anxious today to serve in a way which will be to the interest of the whole people to whom this Government belongs.

We have before us a measure which strikes at the vitals of the monetary system and which affects every dollar in every pocket and till in the Nation. The whole story was told a moment ago when the gentleman from Missouri rose in his place and said :

This is a legislative proposal of Franklin Roosevelt. Pass it! Who is there here who dares vote against it?

Let us get away from personalities. I am not concerned with the personality of the President or the personalities of those men, who, when the last administration was in power, did, perhaps, some things they ought not to have done. Let us get down to principles.

When the emergency was upon us in the days of the special session of Congress one piece of legislation after another came up from the White House, which were written the day before. With them came the order to pass them, and we passed them. We Republicans followed along like good soldiers all through that session. No one will make the accusation that during that time this minority did other than that which was for the good of the country as those in authority and places of responsibility saw it. We are now approaching that stage in the emergency where the light is beginning to dawn. It is beginning to dawn, not by reason of anything done in this country but as the result

of a world-wide upward trend. As a recent issue of Foreign Affairs shows in a series of graphs, the whole trend of trade the world over is upward.

This is the legislative branch of the Government. It is our duty to formulate legislation, to consider it, and to pass or reject it; but here is a piece of legislation sent up by the President, far-reaching in nature. I think I am within the truth when I say there are not 12 men in this House who can explain in detail, or to the satisfaction of their constituents, what this bill authorizes either the President or the Secretary of the Treasury to do, or what its consequences may be.

Is this a representative government or is it not? Has not the hour come when we must ask ourselves whether, in duty to the people of the country, we should exercise our prerogatives or cease drawing our salary, close the doors to these legislative halls, and go home?

There is much in this bill that I voted for at the last session. Much of authority herein sought has already been given to the Executive. There is a great deal in this bill that I am not ashamed to confess I do not understand.

Let me leave this thought with you: You are going to take a function from the Federal Reserve System and transfer it to a man in the Treasury Department on the ground that it is for the good of the country. The Federal Reserve System, for which your party has claimed credit, but which I call the child of the best brains of both parties, set up a series of 12 central banks, scattered throughout this land, each bank independent and autonomous.

The Federal Reserve System is not a private institution in the sense that it is organized for profit; profit is incidental. The surplus in the System was but recently taken over to the tune of \$140,000,000 to make possible the guaranty deposit law. The reserves of this System serve as a buttress for the credit and the currency of the Nation. Upon its dissolution its surplus and undivided profits go to the Government. The System is quasi-public and under the direction of a nonpartisan Federal Reserve Board of Governors.

There is a great misconception of the true characteristics of the Federal Reserve System—this Federal Reserve System you are about to disembowel today. As the result of years of study, it was created on a broad base to embrace a national viewpoint. It was enjoined with the obligation to serve the best interests of agriculture, commerce, and industry. We must not blink our eyes to the fact that there are money interests in this country which do not have the national viewpoint. Such interests are doubtless centered in a certain great city of the East. But the Federal Reserve System, with its 12 central banks of issue, each bank representing a distinct section of the country, and each vested with voting power to offset the moneyed interests of that central city of the East, affords a strong guaranty of credit operations for the good of the country.

Mark you, the system was wisely designed. But humans have perverted it. But by this bill you propose to destroy the System.

You would give to one man the power now vested in the Federal Reserve System. You would authorize him to buy and sell Government securities in the open market. But he, a Secretary of the Treasury, is interested as a heavy borrower for the Government, which is in the

control of his political party. May he be relied upon at all times to maintain the broadest national viewpoint.

This step which your President urges upon you will rise up to plague you.

I am not going to vote for the bill. I do not know what is in it. The House has had no benefit of hearings and is without authentic information as to the provisions of the bill. I cannot be a good legislator and proceed in the darkness of an utter lack of information.

Let me call your attention to section 13 of the bill:

All actions, regulations, rules, orders, and proclamations heretofore taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury, under the act of March 9, 1933, or under section 43 or section 45 of title III of the act of May 12, 1933, are hereby approved, ratified, and confirmed.

Is there a Member here who knows what this blanket covers? Is there a man here who knows what acts his vote for this bill, containing such a section, covers? Is there a man here who could go to his constituents after voting thus blindly and say, "I knew what I was doing when I voted for the President's monetary bill"?

I venture to say there are not 10 men here who could intelligently explain such a vote.

I am not going to vote for this legislation and swallow this thing. I want the chance to sit in committee and question the proper authorities. I want the benefit of regular hearings upon important legislative proposals. Through such procedure are the liberties of the American people secure. Thus and thus alone may we as legislators hope to contribute to the stability of representative government. [Applause.]

* * * * *

The Clerk read as follows:

SEC. 13. All actions, regulations, rules, orders, and proclamations heretofore taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury, under the act of March 9, 1933, or under section 43 or section 45 of title III of the Act of May 12, 1933, are hereby approved, ratified, and confirmed.

Mr. MCGUGIN, Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCGUGIN: After line 7, page 10, strike out all of section 13.

Mr. MCGUGIN, Mr. Chairman, section 13 provides:

That all actions, regulations, rules, orders, and proclamations heretofore taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury, under the act of March 9, 1933, or under section 43 or section 45 of title III of the act of May 12, 1933, are hereby approved, ratified, and confirmed.

This section simply means that every action, rule, regulation, or order promulgated or made by the President or the Secretary of the Treasury under authority given to them in the general banking act or under the Thomas amendment are hereby ratified and confirmed.

So far as the committee is concerned, the truth is that not a member of the Committee on Coinage, Weights, and Measures knows all the acts and regulations which we are about to confirm.

Mr. COCHRAN of Missouri, Mr. Chairman, will the gentleman yield?

Mr. MCGUGIN. I yield.

Mr. COCHRAN of Missouri. An official of the Treasury Department appeared before the committee last night and gave us a list of the actions and orders. They are right here.

Mr. MCGUGIN. Let me have them.

Mr. COCHRAN of Missouri. Now, if there is any objection to voting for the amendment, I wish to hear it. I do not think the gentleman will have any objection.

Mr. MCGUGIN. The statement from the Treasury Department which the gentleman presents shows on its face that they held out on us and did not give us all of these orders. The first paragraph states—and I read it for the benefit of the House:

The principal proclamations, Executive orders, and orders referred to in section 13 of the bill H.R. 6976 are as follows.

That is what they are, the principal ones only; that is the ones which some Treasury Department official regards as the principal ones. We are not being called upon only to ratify orders which someone might regard as the principal regulations and orders, but, rather, we are called upon to ratify all of them, whatever they may be.

Mr. COCHRAN of Missouri. What additional orders does the gentleman want? Does he want every order given to a stenographer to write a letter, or things of that character?

Mr. MCGUGIN. This is not complete. It says, "The principal orders." The Treasury has given the committee what it may think are the principal ones. The gentleman does not know what he is asked to ratify and confirm, nor does any other Member of this House. It is not right to pass legislation in this haphazard manner.

Mr. SOMERS of New York. Mr. Chairman, will the gentleman yield?

Mr. MCGUGIN. In a minute.

Mr. SOMERS of New York. In fairness to the Treasury Department. I think it should be said that the chairman of the committee asked him for only the principal ones.

Mr. MCGUGIN. Does the chairman of the committee say that he knows all the proclamations that have been issued?

Mr. SOMERS of New York. I think I know the principal ones; yes.

Mr. MCGUGIN. Will the chairman of the committee expressly say that he knows what he is voting for when he votes for this section?

Mr. SOMERS of New York. Yes, that I do; yes.

Mr. MCGUGIN. You, my Democratic friends, who now are so anxious to rush this bill through, will sit here and vote blindly to ratify something you know nothing about. You may do so if you wish; but if you do, it is a confession on the part of Congress of its own inability to legislate intelligently. In the next place, ratifying all these orders is an utterly useless thing to do. The last one of these orders was issued pursuant to legislation in which we gave the President or Secretary of the Treasury wide authority in these matters.

If they exceeded their authority, full ratification at this time would not better the situation any. If they issued orders contrary to the Constitution, such ratification as we might make at this time would serve no purpose. All in the world there is to this section is that it is an effort to force Congress to pass a resolution, so to speak, blindly approving whatever the President and Secretary of the Treasury have done.

I voted last spring to give power to the Executive to meet the then emergency, but now, when Congress is called upon to ratify regulations when Congress does not know what regulations have been made, I refuse to go along. I insist that such procedure is not in keeping with parliamentary government.

[Here the gavel fell.]

Mr. SOMERS of New York. Mr. Chairman, I move that all debate on this section and amendments thereto do now close.

* * * * *

3. House Report (Excerpt)

To Protect the Currency Systems of the United States and to Provide for the Better Use of the Monetary Gold Stock, House Report No. 292, 73d Congress, 2d Session, To Accompany H.R. 6976, January 18, 1934

* * * * *

Section 13 is simply a ratification of the action taken by the President and the Secretary of the Treasury under the act of March 9, 1933, and sections 43 and 45 of the act of May 12, 1933.

* * * * *

4. House Minority Report (Excerpt)

To Protect the Currency Systems of the United States and To Provide for the Better Use of the Monetary Gold Stock, House Report No. 292, Part 2, 73d Congress, 2d Session, Minority Report To Accompany 6976, January 19, 1934

* * * * *

We recommend that section 13 be stricken from the bill. This section simply provides that all actions, regulations, rules, orders, and proclamations heretofore taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury, under the act of March 9, 1933, or under section 43 or section 45 of title III of the act of May 12, 1933, are hereby approved, ratified, and confirmed.

We have been wholly unable to find anyone who can give us any reason why the enactment of this section is necessary. Such orders as the President or the Secretary of the Treasury have made under these acts, if in keeping with the acts, require no confirmation to assure their validity. If such orders are not in keeping with the acts, it is our opinion that this confirmation by the Congress in this bill would give them no added validity. Further, we have been unable to find out what is the contents of all the actions, regulations, rules, orders, and proclamations heretofore taken, promulgated, made, or issued by the President or the Secretary of the Treasury of the United States. Therefore, we do not know what is being ratified in this section. None of the members of the committee knows what is being ratified. We make more bold the assertion, no Member of Congress actually knows what is being ratified if this section is left in the bill.

* * * * *

HAROLD MCGUGIN.
RALPH R. ELTSE.

F. Joint Resolution of May 7, 1940

1. Text of Act

54 Stat. 179, 12 U.S.C. 95a, 50 U.S.C. App. 5
Approved May 7, 1940

JOINT RESOLUTION To amend section 5(b) of the Act of October 6, 1917, as amended, and for other purposes

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of subdivision (b) of section 5 of the Act of October 6, 1917 (40 Stat. 411), as amended, is hereby amended to read as follows:

"During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by or to banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, and any transfer, withdrawal or exportation of, or dealing in, any evidences of indebtedness or evidences of ownership of property in which any foreign state or a national or political subdivision thereof, as defined by the President, has any interest, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person to furnish under oath, complete information relative to any transaction referred to in this subdivision or to any property in which any such foreign state, national or political subdivision has any interest, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed."

SEC. 2. Executive Order Numbered 8389 of April 10, 1940, and the regulations and general rulings issued thereunder by the Secretary of the Treasury are hereby approved and confirmed.

SEC. 3. Nothing in this Joint Resolution shall be deemed to repeal or to modify in any manner any of the provisions of the Act of April 13, 1934, 48 Stat. 574 (the Johnson Act) or of the Neutrality Act of 1939 (Public Resolution Numbered 54, Seventy-sixth Congress).

Approved, May 7, 1940.

2. House Debate

86 Cong. Rec. 5335-5336, May 1, 1940

* * * * *
AMENDMENT OF SECTION 5 (B) OF THE ACT OF OCTOBER 6, 1917

Mr. WILLIAMS of Missouri. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (S. J. Res. 252) to amend section 5(b) of the act of October 6, 1917, as amended, and for other purposes, and ask unanimous consent for its immediate consideration and passage.

The Clerk read the title of the Senate joint resolution.

There being no objection, the Clerk read the Senate joint resolution, as follows:

SENATE JOINT RESOLUTION 252

Resolved, etc., That the first sentence of subdivision (b) of section 5 of the act of October 6, 1917 (40 Stat. 411), as amended, is hereby amended to read as follows:

"During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by or to banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, and any transfer, withdrawal, or exportation of, or dealing in, any evidences of indebtedness or evidences of ownership of property in which any foreign state or a national or political subdivision thereof, as defined by the President, has any interest, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person to furnish under oath, complete information relative to any transaction referred to in this subdivision or to any property in which any such foreign state, national, or political subdivision has any interest, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed."

SEC. 2. Executive Order No. 8389 of April 10, 1940, and the regulations and general rulings issued thereunder by the Secretary of the Treasury are hereby approved and confirmed.

SEC. 3. Nothing in this joint resolution shall be deemed to repeal or to modify in any manner any of the provisions of the act of April 13, 1934 (48 Stat. 574) (The Johnson Act), or of the Neutrality Act of 1939 (Public Resolution No. 54, Seventy-sixth Congress).

The joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution was laid on the table.

* * * * *

3. Senate Debate (Excerpts)

86 Cong. Rec. 5006-5009, 5103, 5168-5184, April 25, 26, and 29, 1940

PROTECTION OF CERTAIN FOREIGN PROPERTY WITHIN THE UNITED STATES

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield to the Senator from New York.

Mr. WAGNER. I ask unanimous consent that the unfinished business be temporarily laid aside so that I may bring up a joint resolution of an emergency character, to which I feel very confident there will be no objection, and which will occasion no protracted debate.

Mr. McKELLAR. I have no objection if the measure will take only a short time.

Mr. WAGNER. I feel very sure that is the case.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

Mr. CONNALLY. Mr. President, reserving the right to object, what is the joint resolution?

Mr. McNARY. What is the joint resolution?

The PRESIDING OFFICER. The clerk will state the title of the joint resolution for the information of the Senate.

The Chief Clerk. Joint resolution (S.J. Res. 252) to amend section 5 (b) of the Act of October 6, 1917, as amended, and for other purposes.

Mr. McNARY. Mr. President, a statement of the nature of the joint resolution should be made. I am not conversant with it.

Mr. McKELLAR. I yield to the Senator from New York for that purpose.

Mr. WAGNER. Mr. President, I will briefly explain the joint resolution, if that is what the Senator wants.

Mr. McNARY. Yes; that is what I am requesting.

Mr. WAGNER. The Senate will remember that on April 10, 1940, the President issued an Executive order and the Secretary of the Treasury issued regulations, under authority of section 5 (b) of the Trading With the Enemy Act of 1917, as amended by the act of March 9, 1933. The Executive order imposed certain restrictions upon any transactions in foreign exchange; and upon the transfer of credits from one bank to another within the United States or from a bank of the United States to a foreign bank, and any transactions in evidences of indebtedness, or evidences of the ownership of property, in which a national of the Governments of Norway or Denmark, or the Governments of Norway or Denmark themselves, had any interest, by any person within the United States, or subject to the jurisdiction thereof.

The purpose of the joint resolution, of course, is very clear. We want to protect property within the jurisdiction of the United States which is owned by these governments or their nationals.

Shortly after the Executive order was issued, one of the large banking firms in New York raised the question whether, under the amendments of 1933 to the Trading With the Enemy Act, the President had power to issue an Executive order regulating transactions in evidences of indebtedness or evidences of the ownership of property; in other words, whether or not these regulations could be imposed upon transfers of stocks and bonds and other evidences of ownership.

The contention was that the power was limited to transactions in foreign exchange or the transfer of credit. There was no question that under the act of 1917 the broader power existed, from the wording of the act itself. Of course, that act operated only in wartime, not during peacetime emergency situations.

In 1933 Congress amended the act so as to make it applicable during peacetime emergencies, and to authorize the President to deal also with the hoarding of gold and the exportation of gold. In redrafting the act, the words "evidences of indebtedness" were omitted. It was clearly an inadvertence, because it was asserted here on the Senate floor, as well as in the House, that the amendment was not intended to weaken in any way the power of the President to deal with these matters, but rather to extend those powers to include the hoarding of gold and the exportation of gold.

Mr. McKELLAR. Was the report of the committee unanimous or substantially so?

Mr. WAGNER. The report of the committee was absolutely unanimous, and I am sure that the vote of the Senate will be unanimous.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. BARKLEY. It should also be stated—and I am sure the Senator omitted it by oversight—that the joint resolution is intended not only to protect the nationals of Norway and Denmark who have interests in stocks, securities, and other property in the United States, but it also intended to protect American citizens in the event they have claims of any sort growing out of these transactions, and therefore we preserve the property not only for its owners but for the benefit of Americans who may have claims.

Mr. WAGNER. Yes; we are also protecting the banks which may be called upon to make transfers of securities.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. CONNALLY. I have not read the joint resolution, but it is not restricted to Denmark and Norway, is it?

Mr. WAGNER. I said that the Executive order was restricted to Norway and Denmark. The President may deal with any similar situation arising in any country.

Mr. CONNALLY. The measure is generally in its character. If war should break out in South Africa, it would apply, would it not?

Mr. WAGNER. It would apply anywhere, in Sweden, or Holland, or any of the countries which may be invaded. Wherever the President would feel that the emergency justified this protection, he would be authorized to afford it.

I was referring to the Executive order issued by the President, which dealt only with Norway and Denmark, because they are the countries which have been invaded just recently.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. CLARK of Missouri. I do not desire to interrupt the trend of the Senator's thought, but the joint resolution would reenact the language heretofore used, "period of national emergency."

Mr. WAGNER. Yes.

Mr. CLARK of Missouri. Does the Senator know of any distinction in the law as it exists at present, or as he is about to have it reenacted, between a period of national emergency and a period of limited national emergency? I can perhaps make my question clear to the Senator by adding that the expression has been used all over the country in the newspapers and magazines, and it has even been used by the President of the United States himself in a proclamation which he issued proclaiming a period of "limited national emergency." Does the Senator know of any such term in the law?

Mr. WAGNER. I do not. The authorization is to issue an Executive order if an emergency exists, and during the period of the emergency.

Mr. CLARK of Missouri. The Senator, I think, does not quite apprehend my question. It has been said that at the outbreak of the European war the President issued a proclamation of "limited national emergency." As I have said, the President used that phrase. The President's proclamation, which he issued on the outbreak of the war, was an unlimited proclamation of national emergency, was it not?

Mr. WAGNER. I assume it was.

Mr. CLARK of Missouri. If the Senator has taken the trouble to read the proclamation, he knows that it was a proclamation of an unlimited national emergency. So that the term which is so commonly used, or misused, as I have said, even by the President himself, that it is "a limited national emergency," is an error, is it not?

Mr. WAGNER. I do not care to pass upon that question. I do not think it is involved in this joint resolution.

Mr. CLARK of Missouri. I think it is very much involved, because the Senator is using exactly the same phrase in this joint resolution that is used in the President's proclamation, and which has been misused in the proclamation, "limited national emergency."

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. RUSSELL. The Senator referred to any proclamation the President might issue relating to credits or other evidences of indebtedness while nations were at war. I have seen the joint resolution only within the last 5 minutes, and read it very hurriedly, but it seems to me the President would have a right to issue a proclamation as to any foreign country where there was war, or likelihood of war.

Mr. WAGNER. I did not say it was limited to nations at war, because Denmark, so far as our formal recognition of the situation is concerned, is not at war. What I meant to say was that there must be a situation with reference to other countries which presented the kind of emergency in which we would be called upon to act.

Mr. RUSSELL. The President would have the same power with respect to Italy, Japan, Spain, or any other country.

Mr. WAGNER. I think so. We are not proposing to give him any power with reference to the nations referred to by the Senator which he has not had, in one case, since the World War, and in the other case,

since 1933. We are not proposing to add in any way to the powers the President now has, and has had since these laws were enacted. This is merely a clarifying amendment. There would be no problem if it were not for the one technical question which has been raised, which neither the Attorney General nor the counsel for the Treasury Department, or others who have studied it, regard as having any foundation. The amendment is proposed in order to protect our bankers and other individuals who may be called upon either to transfer credits or transfer securities or other evidences of ownership. Under the Executive order, they are not permitted to make such transfers without a license.

I wish to emphasize the point that this does not absolutely prohibit the transfers, it merely provides that the Government may investigate to determine whether the transfer was made voluntarily or under duress, to be perfectly candid. If the transfer is voluntarily made, our Government, of course, will in no way interfere. But where the transfer is induced, as can be easily established, by duress, we have a right to protect the national of any country against that sort of an imposition, using a very mild term, with respect to securities and other evidences of ownership subject to our laws.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. CONNALLY. Is it not true that the purpose of the proposed legislation is to respect the fact that this property was sent to this country at a time when the countries concerned were in fact at peace, if not now at peace?

Mr. WAGNER. Yes.

Mr. CONNALLY. And is not this measure for the purpose of preventing change of title of the property here in the United States by conquest, or by any other forcible or violent means?

Mr. WAGNER. That is exactly the purpose.

Mr. CONNALLY. For instance, in Norway today the invaders, the newspapers say, are in charge of the city of Oslo, the capital, having taken over the local government, but it is entirely conceivable that under those circumstances banking institutions, or any individual, would be forced, through fear or otherwise, to issue an order transferring securities in the United States which those in control might wish to have transferred. Is not that true?

Mr. WAGNER. Yes. Suppose the Senator and I were citizens of one of those countries—

Mr. CONNALLY. I would rather not make a supposition of that kind. [Laughter.]

Mr. WAGNER. Let us say, anyone.

Mr. CONNALLY. I have enough troubles here without having any more over there.

Mr. WAGNER. I have, too. Suppose, for instance, some of the citizens of Denmark had very large fortunes here, in the form of securities or otherwise, and the present Government of Denmark, under pressure from the invaders, made a call on such citizen and said, "We would like to have these securities." Suppose such a citizen refused. The Senator and I know exactly what would happen. He would be absolutely helpless. Under the proposed law the United States Govern-

ment would inquire into the reason for the transfer, the circumstances under which it was asked. If we found that it was the result of duress, we would refuse to grant a license. It is a protective measure.

Mr. CONNALLY. In reply to the suggestion of the Senator from Missouri [Mr. Clark], I do not quite gather what he is aiming at when he talks about an emergency and a limited emergency. Of course, the powers of the Government of the United States under the Constitution are the same in time of war as in time of peace. They are no greater and no less. An emergency is some occurrence, either financial or physical, that is unusual, something which brings on a critical situation, something out of the ordinary. But even in that kind of a crisis or emergency, the Government cannot do anything except what is warranted by the Constitution.

Mr. WAGNER. Exactly.

Mr. CONNALLY. So I think that much of this talk poking fun at the emergency is beside the point. If there is an extreme drought, during which large portions of the country are parched and people are dying, that is an emergency, and we take action. In an emergency of that kind, we exercise functions which we would not think of exercising in ordinary times.

Mr. WAGNER. As a matter of fact, in 1933 Congress exercised that power by amending the Trading with the Enemy Act so that the President might deal with an emergency which we then recognized, an emergency taking the form of gold hoarding.

Mr. CONNALLY. A financial emergency.

Mr. WAGNER. It was a financial crisis, but it was an emergency. We recognized it as such, and conferred that power upon the President. Pursuant to that authority, he issued the Executive order about which we all know.

But the point I wanted to emphasize is that this is a clarifying amendment, to protect some of our bankers against what I regard as a very technical objection that was made; namely, that while the President had the power to deal with foreign-exchange transactions and the transfer of credit, he might not have the power to deal with "evidences of ownership." I do not believe the point is well taken, but this resolution will remove any manner of doubt.

That was clearly set forth in the act of 1917, and in redrafting the section in 1933, I take it the draftsman felt that these words were sufficient to include evidences of indebtedness and evidences of ownership of property. There was no intention in 1933 to interfere in any way with the power the President already had, but simply to extend those powers to include emergency in time of peace, and dealing particularly with the monetary situation. In order to protect the bankers who have already acted, and who will be called upon to act, I think it will be wiser to clarify the law by including this amendment.

Mr. JOHNSON of California. Mr. President, I wish to inquire of the Senator how this matter comes to the Senate at this time. Was the joint resolution favorably reported by the committee?

Mr. WAGNER. Yes. The committee was in session all yesterday afternoon. Nearly every member of the committee who was present is present now. We all recognized the matter as presenting such an emergency that Congress ought to act at once. I may say to the Senator

from California that the House committee recognized the existence of the emergency, and they also unanimously reported the joint resolution favorably to the House. I do not know whether the House passed the resolution today or not.

Mr. JOHNSON of California. The Committee on Banking and Currency was in session yesterday and today considering the joint resolution?

Mr. WAGNER. We were in session yesterday, and both parties were represented. Most, if not all, members of the committee were in attendance. The Secretary of the Treasury was heard upon the situation. The committee, not only without a dissenting vote, but with approval, reported the bill and asked me to attempt to bring it up today if I could, because we recognized the seriousness of the situation. I am sure the Senator does.

Mr. JOHNSON of California. I am not anxious to delay the Senator from New York at all, but I should like an opportunity to read the joint resolution. It has just come to the Senate.

Mr. WAGNER. I will tell the Senator what is proposed to be done by the joint resolution. The act of 1917 gave the President the power to restrict transactions in the war emergency situation, so that no transfers could be made by citizens of another country owning property here without a license from the Government. The purpose of that was to protect the property of innocent foreigners in this country from being—to use a very frank word—looted.

Mr. JOHNSON of California. How would it be looted in this country?

Mr. WAGNER. I gave an instance earlier in the day. Take the situation now existing. Let us say the Senator is a citizen of Denmark. The German Government has overrun that country, and now, as a realistic matter, while we have not recognized the existence of a state of war, the German Government is in complete control of the Danish Government and the Danish people. The Senator must have read of the amount of property which the German Government has already taken from thousands of Danish citizens, such as cows, dairy products, and the like.

Mr. McNARY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McNARY. What is the parliamentary situation?

The PRESIDING OFFICER. Unanimous consent has been asked for the consideration of Senate Joint Resolution 252, which has not yet been read.

Mr. McNARY. Has any request been made for the regular order, so as to bring the unfinished business back before the Senate?

The PRESIDING OFFICER. No.

Mr. McNARY. It appears there is some controversy with respect to the joint resolution and some lack of knowledge of its provisions. I do not think there is any need to rush the measure through in this fashion. I shall therefore have to call for the regular order.

Mr. WAGNER. Mr. President, of course if the Senator insists, I am powerless. But in this tragic moment, when two democratic countries have been invaded unjustly, countries which wanted to live at peace with the world and to maintain their neutrality, I appeal to the Senator that he permit action to be taken on this matter. We have read

that the citizens, and the governments themselves, are subject to the wishes of the invaders. What I am pleading for is that we do nothing to help the invaders to secure by duress the properties of the citizens and nationals of the invaded countries.

The Executive order issued by the President met with universal approval by the country. Editorials in newspapers all over the United States expressed their approval. Now there is an interim period, because of the construction which has been placed upon that order, during which it may very well be that the securities and belongings of some of the nationals of the invaded countries will be taken from them by duress.

I appeal to the Senate not to waste a moment's time at least to protect those securities of nationals of the invaded countries which may be in this country. I do not even know what may happen overnight, because word has undoubtedly reached there that we are proposing to amend the existing law. The transfers of credits and securities may be accomplished very quickly by cable or radio message. If the construction that has been placed upon the law by some bank in New York is correct, the transfer will have to be made to the invader, who will secure that property. That is why I do not think we ought to waste a moment's time, and I know the Senate does not desire to waste a moment, in an emergency matter of this kind.

Mr. BARKLEY. The joint resolution simply proposes to amend the law with respect to the transfer of property.

Mr. McNARY. That may be. I may be in sympathy with the proposal, and others may be in sympathy with it, but no one has had an opportunity to read the joint resolution.

Mr. BARKLEY. It was favorably reported by the committee today.

Mr. McNARY. Nothing has been said about it. I do not know whether it has even been placed on the calendar as yet.

Mr. BARKLEY. It is on the calendar.

Mr. McNARY. I do not think I should oppose the adoption of the joint resolution, but I think that at least we should have time to read it. We should not act upon it in so short a time.

Mr. JOHNSON of California. The Senator from Oregon is mistaken. There should not be any time allowed to read a joint resolution offered by the Senator from New York.

Mr. McNARY. I suggest that the Senate proceed with the regular order, and that Senators be given an opportunity to read the joint resolution. Is there a report on it?

Mr. WAGNER. Yes. Yesterday when I introduced the joint resolution I said it was a matter of great importance, and that I hoped to bring it up today. I thought that would be notice to Senators that it would be brought up. It is only a technical matter.

Mr. McNARY. The joint resolution was introduced yesterday, and reported today, and an attempt is now made by unanimous consent to have it acted upon, without giving an opportunity to Senators to read the joint resolution. I think a matter of a few hours' delay would not change the complexion of the situation.

Mr. WAGNER. The Senator means to delay action until sometime later during the day?

Mr. McNARY. That may be. I wish an opportunity to read the joint resolution. I am speaking not solely for myself. I hope to be entirely

in sympathy with the proposal, but I think we ought to have a chance to read the joint resolution and the report. There is no use of reporting a measure unless Senators are given an opportunity to read the report.

Mr. BARKLEY. In line with the suggestion made by the Senator from Oregon, I suggest that the Senate proceed with the measure under consideration, and in the meantime Senators can examine the joint resolution, and it may be that we can conclude action upon it this afternoon.

Mr. WAGNER. I will say to the Senator that I would not have made this fervent plea except that I was informed by the two Government departments involved that the measure was of an emergency character, in view of what was going on abroad at this moment, and what might well happen overnight with respect to other neutrals.

Mr. McNARY. I do not doubt that, but I do not believe the situation will greatly change if we delay action for a few hours.

Mr. AUSTIN. Mr. President, will the Senator withhold his request for a moment?

Mr. McNARY. I have nothing to withhold.

Mr. AUSTIN. The Senator asked for the regular order.

Mr. McNARY. Yes.

Mr. AUSTIN. I wish to present an interrogatory. If either the majority leader or the Senator in charge of this bill will point out new language in the bill it will help us a great deal. The report does not point that out.

Mr. BARKLEY. I can read it to the Senator. It is in three lines. It is an amendment of section 5 of the act of October 6, 1917, as amended.

Mr. WAGNER. The words "evidences of indebtedness and evidences of ownership of property" are added. These are substantially the words inadvertently dropped in the revision of 1933.

Mr. BARKLEY. This is the new language.

After the word "currency", it is proposed to insert—

and any transfer, withdrawal, or exportation of—

Mr. AUSTIN. Where is the Senator reading?

Mr. BARKLEY. I am reading from a memorandum. On page 2, line 4, after the word "currency", it is proposed to insert:

And any transfer, withdrawal, or exportation of or dealing in any property with which any foreign state, or a national, or political subdivision thereof, as defined by the President, has any interest.

Mr. AUSTIN. May I ask one further question? I observe that the paragraph begins with the words—

During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate. * * *

Mr. WAGNER. That is the present law, I may say to the Senator.

Mr. AUSTIN. I have the present law before me and I do not observe those words in it.

Mr. WAGNER. That language is in either that law or the law which was amended in 1917.

Mr. BARKLEY. That language will be found in section 2 of the Banking Act.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. DANAHER. Let me call the language to the attention of the Senator from Vermont. In volume 48, Statutes at Large, page 1, is found an act "to provide relief in the existing national emergency in banking, and for other purposes." Section 2 of the act amends the act of 1917; and therein appears the language which has now been altered, as the Senator from Kentucky has read.

Mr. AUSTIN. Does the language "during time of war or during any other period of national emergency" appear there?

Mr. DANAHER. It does. If it would be a convenience, I shall be glad to read it into the record.

Mr. AUSTIN. I think it would be a good idea. Then we shall have the act before us.

Mr. DANAHER. In order that the record may show exactly what the existing law is, let it appear that in volume 40, Statutes at Large, on page 415, in section 5, subsection (b), we find the act of 1917, which was amended by an act approved in 1933, appearing in 48 Statutes at Large, page 1, which provides:

SEC. 2. Subdivision (b) of section 5 of the act of October 6, 1917 (40 Stat. L. 411), as amended, is hereby amended to read as follows:

"(b) During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person engaged in any transaction referred to in this subdivision to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters, or other papers in connection therewith in the custody or control of such person, either before or after such transaction is completed.

I think the Senator from Kentucky, in response to a question from the Senator from Vermont, inadvertently used the word "property" with reference to the changes appearing on page 2, line 5, of the joint resolution. I am sure he did not mean "property"; for the language is, "any evidences of indebtedness or evidences of ownership of property." There is a distinction, in that the words "evidences of indebtedness" are definitely new.

In addition, Mr. President, I think the Senator from Vermont will find that there is new language on page 2, in lines 12 and 13, or thereabouts.

Mr. AUSTIN. Also in line 10.

Mr. WAGNER. Mr. President, I think the Senator will agree that at any time when I spoke with reference to this legislation I used the words "evidences of ownership."

Mr. DANAHER. I agree.

Mr. WAGNER. If the Senator from Vermont will compare the proposed amendment with the language of the 1917 act I think he will see that it is practically the same language which was omitted in the amendment of 1933. I am sure it was omitted by mere inadvertence, because at that time there was no intention in any way to limit the power of the President with reference to dealing in evidences of ownership of property.

Mr. AUSTIN. Mr. President, I am entirely satisfied with the explanation of the difference between the text of Senate Joint Resolution 252 and the original act in Fortieth Statutes, page 415.

The PRESIDING OFFICER. Is there objection to the present consideration of Senate Joint Resolution 252?

Mr. McNARY. Mr. President, a while ago I asked for the regular order.

The PRESIDING OFFICER. The regular order has been called for.

* * * * *

PROTECTION OF CERTAIN FOREIGN PROPERTY WITHIN THE UNITED STATES

Mr. WAGNER. Mr. President, I move that the Senate proceed to the consideration of Senate Joint Resolution 252, Calendar No. 1550.

Mr. JOHNSON of California. Mr. President, is there any intention on the part of the Senator to proceed with the joint resolution tonight?

Mr. WAGNER. I shall not ask for its consideration until Monday morning.

Mr. McNARY. That is the understanding.

Mr. WAGNER. Yes.

The PRESIDING OFFICER. The joint resolution will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. Joint resolution (S. J. Res. 252) to amend section 5 (b) of the act of October 6, 1917, as amended, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York.

The motion was agreed to; and the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Banking and Currency without amendment.

Mr. DANAHY. Mr. President, the Senator from New York [Mr. Wagner] yesterday discussed Senate joint resolution 252. I think the Senator from New York and all other Senators interested should properly have before them the—shall I call it the concentration of wisdom on the part of many with whom I have spoken? I intend to send to the desk certain proposed amendments, that they may lie on the table and be printed.

One amendment would limit the provisions of sections 1 and 2 of the pending joint resolution in such fashion as that they would not apply to American citizens.

Another amendment would transpose language appearing on page 2 of the pending joint resolution in this way: On page 1, line 11, it is proposed to insert the following:

The acts under which any foreign state or a national or political subdivision thereof, as defined by the President, has an interest, following, to wit:

Therefore it would require that there be stricken from page 2, lines 6, 7, and 8 the words:

In which any foreign state or a national or political subdivision thereof, as defined by the President, has any interest.

The third proposed amendment would limit all power conferred by Senate Joint Resolution 252 in amending existing law, in such fashion that the measure, as amended, would terminate on May 1, 1941.

Mr. President, I send the three amendments to the desk and ask that they be printed and lie on the table.

The PRESIDING OFFICER. The amendments proposed by the Senator from Connecticut will be printed, and will lie on the table.

* * * * *

PROTECTION OF CERTAIN FOREIGN PROPERTY WITHIN THE UNITED STATES

The Senate resumed the consideration of the joint resolution (S. J. Res. 252) to amend section 5(b) of the act of October 6, 1917, as amended, and for other purposes.

Mr. DanaHER obtained the floor.

Mr. WAGNER. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from New York?

Mr. DANAHER. I yield.

Mr. WAGNER. I should like an opportunity to offer an amendment to the pending joint resolution before the Senator begins, if he will yield to me for that purpose. I do not propose to address the Senate upon the merit of the proposition, as I did that the other day, and I do not care to repeat. Is it agreeable to the Senator that I will now offer the amendment? It does not relate to the amendment which the Senator from Connecticut desires to offer.

Mr. DANAHER. No; but, I take it that it is an amendment that has been suggested by our conferences.

Mr. WAGNER. The amendment I intend to offer was suggested by me to the Senator from California [Mr. Johnson], frankly because the Senator from California still has some apprehension as to the effect of the joint resolution. I do not believe that the so-called Johnson Act can in any way, either directly or indirectly, be affected by the pending joint resolution, but I was a Member of the Senate when the Senator brought forth his bill which became the law, and was one of his followers at that time. I do not want to do anything which will, in any way, create any apprehension in the Senator's mind, or in the minds of other Senators who have raised the question, that this joint resolution in any way affects the so-called Johnson Act or the Neutrality Act. I am simply offering an amendment to make that perfectly clear, and I thought perhaps the Senator would like to have that known before he begins to discuss his amendment.

Mr. DANAHER. Mr. President, there has been general apprehension that, because of this joint resolution coming after the Neutrality Act by which credit restrictions were set up, it might be claimed at some time or other that those restrictions had been modified by the joint resolution. If the Senator from New York wants to make certain that there is no question of that, and that there is no question of an inveighment against the provisions of the Johnson Act, I am more than happy to yield to him for the purpose of offering the amendment required by that situation.

Mr. WAGNER. I thank the Senator.

Mr. McNARY. Mr. President, will the Senator yield?

Mr. WAGNER. Certainly.

Mr. McNARY. Do I understand correctly that the Senator proposes to modify the joint resolution?

Mr. WAGNER. I propose to modify it to an extent which will make it so clear that there will be no contentious point about it, that the joint resolution does not in any way affect the Johnson Act or the Neutrality Act.

Mr. McNARY. Very well, I am in accord with that view, and I suggest to the Senator that he permit his amendment to be stated at the desk now so that it may be before the Senate.

Mr. WAGNER. I thank the Senator and I now offer the amendment.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed to amend the joint resolution by adding at the end thereof a new section to read as follows:

SEC. 3. Nothing in this joint resolution shall be deemed to repeal or to modify in any manner any of the provisions of the Act of April 13, 1934 (48 Stat. 574) (the Johnson Act), or of the Neutrality Act of 1939 (Public Res. 54, 76th Cong.).

The PRESIDENT pro tempore. Is there objection to the amendment? The Chair hears none, and the amendment is agreed to.

Mr. DANAHY. Mr. President, I am very happy that the amendment submitted by the senior Senator from New York has been adopted. Senators will recall that on Thursday last, when Senate Joint Resolution 252 was submitted, it was explained that its general as well as immediate purpose was to prevent any possible gain to Germany by virtue of her invasion of Norway and Denmark. Indeed, the Senator from New York at that time told us—

I do not even know what may happen overnight, because word has undoubtedly reached there that we are proposing to amend to existing law. The transfers of credits and securities may be accomplished very quickly by cable or radio message. If the construction that has been placed upon the law by some bank in New York is correct, the transfer will have to be made to the invader, who will secure that property. That is why I do not think we ought to waste a moment's time, and I know the Senate does not desire to waste a moment, in an emergency matter of this kind.

There was at that time in the minds of a good many of us an apprehension that if the joint resolution were passed under the aegis of the emergency and the need for haste as then claimed for it, there might result a modification of the Johnson Act, and there might be, by intentment at least, a limitation or modification of the credit restrictions imposed by the Neutrality Act. One of the purposes in the minds of many of us was to seek to clarify the joint resolution and, therefore, to give it more study. Consequently, a most salutary result has been accomplished this morning in amending the joint resolution to the extent just agreed upon by the Senate. But, Mr. President, if the joint resolution, upon more mature thought, required the amendment which has just been adopted, let me submit to the Senate that there are yet other amendments which ought to be considered, and in the light of maturity of deliberation and more-considered judgment, I submit that the Senate will find that there is ample room for additional amendments.

I think, Mr. President, that I should first call attention to the fact that this particular joint resolution would amend the old Trading With the Enemy Act, which was adopted in 1917, when the United States was at war. In section 5(a) of that Act we read this:

That the President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation,

suspend the provisions of this Act so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time.

In section 5(b) we read :

That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, export or earmarkings of gold or silver coin or bullion or currency transfers of credit in any form—

Notice, Mr. President, that even in time of war we specifically interpolated into that act this language—

(other than credits relating solely to transactions to be executed wholly within the United States).

That parenthetical exception as contained in the 1917 act was omitted in 1933 when the 1917 act was further amended, and it is not found in the pending joint resolution. Consequently, we very definitely have the President of the United States being given in time of peace a power which even in time of war we denied to the President of the United States. I continue to read from section 5(b) :

And transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country, whether enemy, ally of enemy or otherwise, or between residents of one or more foreign countries, by any person within the United States.

Mr. President, you will notice that there was not then required an interest of a foreign government in the property; there was not then required anything like the degree of ownership that is implied as necessary to submit the particular evidence of indebtedness, such as a bond, or evidence of ownership of property, such as stock, to regulation and control, and, in fact, prohibition; and there was not then given to the President the power to limit all such transactions as is contemplated by the pending joint resolution.

So, when in 1933, we had the bank holiday when there was need that there be some protection given to the banking institutions of the United States, there was not then, as someone would have us think, an all-embracing restriction. That is made perfectly clear by a comparison of the language which appears in Forty-sixth Statutes at Large on page 1, section 2, of the act, then passed, which was entitled "An act to provide relief in the existing national emergency in banking, and for other purposes."

In that section there was very definitely omitted language which would constitute a restriction upon the transfer of credits, and an exemption of transactions wholly for execution within the United States.

Moreover, there was then omitted provision as to evidences of indebtedness or evidences of ownership of property. Consequently, it cannot be said that those who wrote that legislation, knowing very well the full intentment of the language, and what they were seeking to do, had any thought then that the President of the United States should be given the power in time of peace to control by regulation or by prohibition transactions involving evidences of indebtedness or evidences of ownership of property.

Mr. President, the pending joint resolution goes further than anything that has ever been granted by way of power to the President in time of peace in any such fashion as is here contemplated. Not only

does the joint resolution inveigh against transactions involving, and transfers of credit between banks in this country, but, under the power of regulation which some purport to find in the existing law, we see that on the 10th of April 1940 the President, by proclamation, actually added section 9 to the regulations issued in 1934, which appear in the committee report, forbidding such transactions if they involved property in which Norway or Denmark had an interest.

Mr. President, let me ask at this time unanimous consent that the committee report be printed in the RECORD as a part of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The report (No. 1496) is as follows:

* * * * *

Mr. DANAHER. Mr. President, in section 9 of that proclamation we find that, insofar as the property in which Norway or Denmark or any national thereof has at any time on or since April 8, 1940, any interest of any nature whatsoever, direct or indirect, there is forbidden—

all transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States.

And all payments by any banking institution within the United States, and all transactions in foreign exchange by any person within the United States.

Mr. President, if we really wish to confer, by this joint resolution, power to control the securities or transactions involving the securities of citizens of Denmark and Norway or the governments thereof, all we have to do is to say so, but it will be the Congress which does it. We do not have to extend this power beyond anything which has hitherto been granted to the President of the United States.

Mr. President, with that thought in mind I sent to the desk on Friday an amendment which I will call up at this time. In order that the clerk may the more readily identify it, I will read it:

On page 1, line 11, after the word "otherwise", insert the following: "the acts under which any foreign state or a national or political subdivision thereof, as defined by the President has any interest, following, to wit."

Mr. President, I ask unanimous consent that the clerk not be required to restate the amendment, but that it be offered in this fashion as the pending amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BARKLEY. Mr. President, as I understand, that simply offers the amendment. It does not dispose of it.

Mr. DANAHER. I will say to the Senator from Kentucky that my request was simply to avoid taking the time to cause the clerk to repeat what I have read.

Mr. BARKLEY. That is now the pending amendment?

Mr. DANAHER. That is now the pending amendment, I hope.

The PRESIDENT pro tempore. The ruling of the Chair is that it is the pending amendment.

Mr. DANAHER. I thank the Chair; and it is the pending amendment by itself, without my continuing with paragraph 2:

On page 2, lines 6, 7, and 8, strike out the words "in which any foreign state or a national or political subdivision thereof, as defined by the President, has any interest."

I ask unanimous consent that the two, taken together, be the pending amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WAGNER. Mr. President, I did not quite understand the request of the Senator from Connecticut.

Mr. DANAHER. Let me say to the Senator from New York that both proposals appear in the one printed amendment; and simply to save time, which had been my hope, I made the request. It is an amendment to strike out and insert. That is what it is. The Senator has the amendment on his desk, I am certain.

Mr. WAGNER. Is this the amendment which reduces the present power of the President?

Mr. DANAHER. It is. It transposes to page 1 the language of the clause appearing on page 2.

Mr. President, I have learned my lesson. Far from saving any time, I have taken about 4 minutes that I need not have taken if I had had the clerk read the amendment in the first place.

Let me say to the Senator from New York that the continuity of the pending joint resolution, if this amendment were adopted, would be as follows:

Resolved, etc., That the first sentence of subdivision (b) of section 5 of the act of October 6, 1917 (40 Stat. 411), as amended, is hereby amended to read as follows:

"During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, the acts under which any foreign state or a national or political subdivision thereof, as defined by the President, has any interest, following, to wit: Any transactions in foreign exchange, transfers of credit between or payments by or to banking institutions as defined by the President, and export, boarding, melting, or earmarking of gold or silver coin or bullion or currency, and any transfer, withdrawal, or exportation of, or dealing in, any evidences of indebtedness or evidences of ownership of property by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person to furnish, under oath, complete information relative to any transaction referred to in this subdivision or to any property in which any such foreign state, national or political subdivision has any interest, including the production of any books of account, contracts, letters, or other papers in connection therewith in the custody or control of such person, either before or after such transaction is completed."

SEC. 2. Executive Order No. 8389 of April 10, 1940, and the regulations and general rulings issued thereunder by the Secretary of the Treasury are hereby approved and confirmed.

Mr. President, in that way, if we transpose the modifying clause from page 2 to page 1, we will define a class of transactions in which a foreign government or its nationals may have an interest, and which may properly be the subject of Presidential control, whether by way of limitation or regulation or prohibition; and to that extent there will then be a proper conference of power upon the President. But if we take the language as it appears in the joint resolution, the President of the United States is by the joint resolution given unlimited power to regulate and control all transactions in foreign exchange, transfers of credits between, or payments by or to banking institutions so far as American citizens are concerned. There is not an American citizen who, except under license, may send a thousand dollars, if you like, to the Argentine to do business. He may not do business with Aus-

tralia, if you choose, unless he gets a license. He may not make any transfer whatever of American funds into the foreign exchange of any nation whatever, regardless of whether it is at war or whether it is not, whether it is Norway or Denmark or any nation, unless he gets a license. I submit that the United States and her citizens are not at war; and the mere fact that there is an emergency overseas is not any reason in the world why we should be caused to submit to such restrictions and limitations upon our normal and natural rights as is thus contemplated.

So the pending amendment would achieve everything that is claimed to be the purpose of the pending joint resolution, namely, to prevent a sequestration by Germany of the avails of her unlawful and wrongful and, so far as we can now see, abominable aggression in Denmark and Norway. All gain to Germany by such conduct would be protected against; but, Mr. President, we could at the same time preserve to American citizens rights which have always been theirs, including the right to transact business with reference to evidences of bond and stock ownership, even though the securities in question have been held by foreigners, and many such transactions could and would be perfectly legitimate. In that particular there would be no loss of proper control if my amendment carries; for if there be sent to this country for sale, if you choose, or transfer upon our exchanges, securities from a nation which is at war—if it be Denmark, for instance, or Norway—under the pending joint resolution the Secretary of the Treasury would still have control, through the licensing provisions, as to the terms and the basis and the amount of the transaction, if you like. But, while we should properly give all the protection that is sought for in the joint resolution as to such nations or their citizens, we should not be limiting Americans in their right to do business.

In that particular the pending amendment reaches, it seems, to the heart of the joint resolution.

There is another phase of the matter which is worthy of note. There are high Government officials who are today engaged in the very realistic task of ascertaining how foreign securities held by nationals, or by nations, if you choose, abroad may be liquidated in our markets without depressing the American market and causing loss to American investors. That is a very real problem; and it is not too farfetched to say that there is under consideration at this minute a plan by which such securities, nationalized by countries at war, may be hypothecated through American corporations, may be made the basis of the issuance of credits through American banking institutions such as the Reconstruction Finance Corporation, and all such stocks and securities otherwise generally be subjected to regulation and control, even down to what person is going to be permitted to conduct the transaction.

Mr. President, we have never granted such omnibus power to our President in time of peace as is done by this resolution; and, with such thoughts, let me call to the attention of the Senate an article which appeared in this morning's Wall Street Journal entitled "New Bill Would Give President Broad Powers to Control Liquidation."

I ask that this article be inserted in the Record at the end of my remarks.

The PRESIDENT *pro tempore*. Without objection, it is so ordered.
[See exhibit 1.]

Mr. DANAHER. Mr. President, there is another consideration, it seems to me, which ought to be brought out. In the remarks of the senior Senator from New York [Mr. Wagner] on Thursday last, which commence in the Record at page 7647, he stated:

The purpose of the joint resolution, of course, is very clear. We want to protect property within the jurisdiction of the United States which is owned by these governments or their nationals.

"We want to protect property within the jurisdiction of the United States which is owned by these governments or their nationals."

Mr. President, if that be the avowed purpose of the joint resolution—and I submit that the remarks of the senior Senator from New York throughout the following pages bear out his claim that that is the avowed purpose of it—what of the rights of Americans in the circumstances? I submit that the way to achieve the purpose which is avowed and claimed for the joint resolution is to transpose the modifying clause from page 2 to the proper place on page 1, as has been proposed in the pending amendment, so that thereafter all legitimate American transactions may be carried forward without limitation and without regulation and without prohibition to be exercised in the discretion of any one man.

That concludes my remarks on this amendment.

EXHIBIT 1

[From the Wall Street Journal of Monday, April 29, 1940]

NEW BILL WOULD GIVE PRESIDENT BROAD POWERS TO CONTROL LIQUIDATION— PROVIDES LEGAL AUTHORITY IN EVENT EMERGENCY ACTION EVER BECOMES NECESSARY—SANCTIONS IMPOUNDING OF ASSETS

WASHINGTON.—Legislation granting to the President broad new powers to regulate or prohibit foreign liquidation of American securities will be placed before the Senate for action this week, possibly today.

Such authority, it was learned last night, is included in the new administration-sponsored bill legalizing the recent impounding of Danish and Norwegian funds and securities in this country.

Under the terms of the measure, the President is given authority to regulate or prohibit any transfer, withdrawal, or exportation of "any evidence of indebtedness" (bond) or "evidence of ownership of property" (stock) in which any foreign state or national has any interest.

This authorization was interpreted here as empowering the President to control or prohibit any liquidation of foreign-owned domestic securities. The only apparent reason for seeking such authority at this juncture is to provide undoubted legal sanction in the event emergency action ever becomes necessary. Administration quarters, it was pointed out, repeatedly have expressed complete satisfaction with the liquidation technique now being used by the Allied Governments.

MAY INCLUDE LIQUIDATION

It is expected that the question of broadening the emergency powers of the President to include liquidation of securities will be discussed when the legislation is brought up in the Senate.

The primary purpose of the legislation, officials say, is to legalize the April 10 order of President Roosevelt impounding American balances and securities in this country, title to which is in the name of Norway and Denmark. Secretary Morgenthau appeared before a congressional committee last week in support of the legislation to protect the Scandinavian funds against invaders not entitled to them.

Meanwhile, latest Treasury figures on liquidation of foreign-owned American securities show that during January net sales totaled \$4,479,000, an increase over the low figure of \$1,087,000 noted for last December. The greatest amount of

foreign liquidation took place last October when the total net was \$49,698,000, the Treasury announced.

English and Canadian investors reduced their holdings of domestic securities by \$12,365,000 and \$3,270,000, respectively, as against \$10,189,000 and \$3,338,000 in the preceding month.

SWISS, DUTCH HEAVY BUYERS

Switzerland and the Netherlands continued to be the heavy buyers of American securities during the month. Other nonbelligerent European countries also remained on the net purchase side of the ledger.

The total net capital movement between the United States and foreign countries showed an inflow of \$37,595,000 in January compared with an inflow of only \$5,046,000 in December 1939.

Foreign short-term balances increased from \$2,948,035,000 on January 3 to \$2,994,730,000 on January 31, and were \$89,372,000 higher than on August 30, 1939.

British short-term balances declined \$43,766,000 to \$404,451,000 in January and since August 1939 have fallen \$190,046,000. French funds rose to \$290,591,000 in the month, but for the 5 months ended January 31 were off \$25,262,000.

The short-term balances of Belgium, Denmark, Finland, Norway, and Sweden appeared for the first time in the Treasury Bulletin. Also included for the first time were the balances of China, Japan, and the major South American countries.

BELGIUM'S BALANCE

Belgium's short-term balance at the close of January totaled \$166,215,000; Denmark, \$28,703,000; Finland, \$23,822,000; Norway, \$66,986,000; and Sweden, \$162,385,000. All showed increases in the month, the largest being \$20,156,000 for Sweden.

Of the far-eastern countries, China increased its balances here \$6,476,000 to \$171,888,000, while Japan, in January, showed little change at \$57,969,000.

The trend of short-term balances in the United States of South American countries was mixed with Argentina up \$8,756,000 to \$66,465,000. Brazil declined \$4,505,000 to \$31,848,000; and Chile, \$2,373,000 to \$24,424,000. Mexico, with \$62,100,000, showed an increase of \$3,324,000.

United States balances abroad increased from \$508,702,000 on January 3 to \$533,043,000 on January 31. Balances in England increased \$16,238,000, and in Japan, \$9,045,000. On January 31 balances in Belgium amounted to \$7,178,000; Denmark, \$3,662,000; Finland, \$1,213,000; Norway, \$3,652,000; and Sweden, \$6,487,000.

Foreign countries repatriated \$12,298,000 of foreign securities in the United States, \$7,443,000 of which was for Canada.

Brokerage balances were up \$7,413,000 for the month, small declines being registered by England, France, and Germany. Canada showed an increase of \$2,106,000; and Asia, \$5,078,000.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Connecticut [Mr. Danaher].

Mr. WAGNER. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Byrd	George
Ashurst	Capper	Gerry
Austin	Caraway	Gillette
Bailey	Chandler	Glass
Bankhead	Chavez	Guffey
Barbour	Clark, Idaho	Gurney
Barkley	Clark, Mo.	Hale
Bilbo	Connally	Harrison
Bone	Danaher	Hatch
Bridges	Donahey	Hayden
Brown	Downey	Herring
Bulow	Ellender	Hill
Burke	Frazier	Holman

Hughes	Norris	Taft
Johnson, Calif.	O'Mahoney	Thomas, Idaho
Johnson, Colo.	Overton	Thomas, Okla.
King	Pittman	Thomas, Utah
La Follette	Reed	Tobey
Lodge	Reynolds	Townsend
Lucas	Russell	Truman
Lundeen	Schwartz	Tydings
McKellar	Schwellenbach	Vandenberg
McNary	Sheppard	Van Nuys
Maloney	Shipstead	Wagner
Mead	Slattery	Walsh
Miller	Smathers	Wheeler
Minton	Smith	White
Murray	Stewart	Wiley

The PRESIDING OFFICER [Mr. Brown in the chair]. Eighty-four Senators have answered to their names. A quorum is present.

The question is on the amendment offered by the Senator from Connecticut [Mr. Danaher].

Mr. WAGNER. Mr. President, I desire to take only a little time of the Senate in discussing the amendment which is up for consideration now. I merely wish to say that the joint resolution, as introduced, and as explained to the Senate, was for the purpose of clarifying certain language respecting the powers of the President to act in an emergency. The Senator from Connecticut in his proposed amendment does not in any way challenge the joint resolution which I offered simply to clarify the Trading With the Enemy Act of 1917, as amended by the act of 1933.

The Senator from Connecticut now proposes an amendment which was not considered by the committee. The distinguished Senator is a member of the committee. We went over the joint resolution in detail, and as a matter of fact the Senator made certain suggestions in the committee, not by way of amendment, but simply of interpretation. No amendment of this kind was suggested, although the full committee was present. The Senator from Delaware [Mr. Townsend], the Senator from North Dakota [Mr. Frazier], the Senator from Ohio [Mr. Taft], and the Senator from Connecticut [Mr. Danaher] were present representing the minority, and nearly every member of the majority was present. We discussed the measure in full, and reported it by unanimous vote.

What is the Senator's suggestion in these closing hours? Not in any way to oppose the clarifying amendment which I suggested, but drastically to amend the original law. In this critical time in the world's history, he would weaken the powers of the President to deal with other matters, such as transfers of foreign exchange and the transfer of credits from one bank to another, effected by American citizens. Under the Senator's amendment the President could not deal with these matters at all, whatever the emergency might be. Who knows what the situation will be tomorrow? We hear stories of what is going on in Europe, of other countries that may be drawn into this war. It may be that in all that critical situation we shall have to take action with respect to foreign-exchange transactions by American citizens as well as by nationals of foreign governments. The Senator from Connecticut would limit the power of the President now, so

that in those cases the President will be powerless unless a foreigner is interested in the transaction.

Mr. President, it will be remembered that in 1933, because of a crisis that existed here, we had to regulate foreign exchange so as to prevent the flight of capital from our own country. In that case, American citizens were primarily involved. If I remember correctly—I do not want to inject any political argument into this discussion—when that was done in 1933, President Hoover himself tried in a way to explain that the serious depression which required that action resulted, not from conditions arising over here, not by anything of his doing or of his administration, but because of the impact of conditions in foreign countries.

Mr. President, who would have prophesied 2 years ago that rich countries such as Great Britain, France, Holland, Switzerland, Belgium, and others, would enact laws which absolutely control their foreign exchange, so as to prevent the flight of capital from their countries? All those countries, for their own economic protection, have had to enact such laws.

I do not say that the President will ever have to exercise that power. But how do we know what will happen tomorrow? In these closing hours, when we have a bill merely to clarify an existing law, it is proposed to take away from the President of the United States the power to deal perhaps with matters of the greatest national importance which may arise overnight and which may require immediate and sweeping action on his part.

If we are to deal with those powers—which have existed for 23 years without any question—if we are to consider taking away those powers from the President, then it ought to be done in a thorough, regular way. It should be done by the introduction of a bill, by hearings before committees, where all sides may present their views, so that we might know what consequences or complications may stem from our action.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. CLARK of Missouri. The Senator says that these powers have existed for more than 20 years, which, of course, is true. But is it not a fact that they were wartime powers granted the President of the United States when the United States itself was actually engaged in a war, and possibly permitted to stay on the statute books more or less by mistake, until the President reminded us of it by his proclamation of national emergency when the present European war started? In other words, the point I wish to suggest to the Senator from New York is that those were powers granted the President of the United States in his capacity as Commander in Chief of the Army and Navy of the United States at a time when we were actually at war ourselves.

Now, Mr. President, it seems to me, since the question has been presented, that there may be very grave doubt as to whether those powers ought to be permitted to remain when the United States is not actually at war itself, and whether their continued existence is not simply another step along the path of war.

Mr. WAGNER. Mr. President, the Senator is mistaken when he says that the law limits the action by the President to issue Executive

orders in time of war. The original act did deal only with a wartime emergency, but in 1933 we were suffering from conditions which were quite as serious as any war conditions—a very serious depression. Congress recognized that there was a very serious flight of capital from the United States. Therefore Congress added to the powers of the President, so that he might deal with a crisis of that character as well as a wartime crisis. We amended the law in 1933, so as to confer upon the President emergency powers, powers to deal with emergencies in time of peace. Without the actual exercise of that power we would have been in a very serious economic condition because of the flight of the dollar.

Mr. CLARK of Missouri. Of course, I say the title of this act itself, the "Trading With the Enemy Act," shows the purpose of the act. How could we have an enemy if we were not engaged in the war then? The very title of the act completely discloses the purpose of the act, which was to prevent certain things happening when we were actually engaged in a war ourselves.

The Senator from New York now says that this act has prevented the flight of capital. I think no one will dispute that fact. The President of the United States by his own authority has taken nearly all the capital of the United States and buried it in a hole in Kentucky. I do not believe that the extension of that power is necessary to enlarge the hole in Kentucky.

Mr. WAGNER. Mr. President, we are not extending the power at all.

Mr. CLARK of Missouri. You are just enlarging the hole.

Mr. WAGNER. No; we are not extending the power, because even the Senator from Connecticut [Mr. Danaher] does not object to the clarifying amendment which I have offered to the existing law. What I am saying is that we should not act in this hurried manner, without knowing just what crises may arise tomorrow because of the situation in Europe and the Far East, without realizing what powers we may take away from the President or what emergencies may arise which will require quick action. To adopt the Senator's amendment would be to assume a responsibility which I would not want to assume, and I do not think the Senate would want to assume it.

It is clearly understood that the purpose of the joint resolution is merely to clarify an ambiguity. I think it would be most unfortunate for the Senate to give notice to the world—while the present crisis exists and may deepen, although I pray it will not—that we are actually so distrustful of the President's foreign policy that we are willing to reduce his powers. That would be a message of disunion which I should not like to have go out to the other countries of the world.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. CLARK of Missouri. The Senator says that the pending amendment ought not to be adopted because we do not know what will happen tomorrow. Is the Senator willing to suggest a date at which he thinks he will be able to prognosticate what will happen the next day in world affairs?

Mr. WAGNER. I cannot tell what emergency may arise tomorrow. However, in no case has the President exercised the power unless an

emergency existed; and every time he has exercised it he has had the almost unanimous support of the American people. When the order respecting Danish and Norwegian credits was issued on April 10, not a single word of dissent was heard anywhere in the United States. Every newspaper which commented upon his action commented with approval. The comments of our leading citizens, as well as our leading statesmen, were to the effect that he did a very wise thing.

MR. CLARK of Missouri. Mr. President, will the Senator yield?

MR. WAGNER. I yield.

MR. CLARK of Missouri. If the President has already exercised the power, what need is there of the present joint resolution to authorize it?

MR. WAGNER. Because, as I tried to explain the other day, a technical legal question arose. In my opinion the legal question raised is not well founded. Under the law as it exists today, the President, in my opinion, has a perfect right to prohibit, limit, or control evidences of indebtedness or evidences of ownership in which a foreign national has an interest. The Attorney General has so ruled, and so has the general counsel of the Treasury Department. No question was raised until one of the banking concerns in New York—I am now dealing with a realistic situation, and not mere conjecture—was called upon to transfer some securities owned by a Danish citizen to some other authority. The attorneys for the bank rendered an opinion stating a doubt existed as to whether the President had the right, as the law now reads, to deal with securities, common stock, or other evidences of indebtedness. There is no doubt that he had a right to deal with foreign exchange, or the transfer of credit from a bank in the United States to a bank outside the United States; but some question was raised as to whether this very important power, which I think everybody wants him to have, existed. To protect the banks, the joint resolution was introduced to clarify the power which I think it was always intended the President should have, and which in my opinion he does have.

MR. BARKLEY. Mr. President, will the Senator yield?

MR. WAGNER. I yield.

MR. BARKLEY. In that connection, it was not because the bank opposed the exercise of the power——

MR. WAGNER. Oh, no.

MR. BARKLEY. But simply in order that it might protect itself against any claim which might grow out of compliance in the event there was some doubt about the full authority. Of course, the Treasury does not wish to be drawn into a lawsuit in regard to the matter. It is very largely a matter of precaution.

While I am on my feet, I wish to say to the Senator from Missouri [Mr. Clark], in connection with his rather facetious reference to a hole in the ground in Kentucky——

MR. CLARK of Missouri. The hole is in Kentucky, is it not?

MR. BARKLEY. Oh, yes. It is in Kentucky; and there is a great quantity of gold there. It is there for safekeeping. The Government of the United States was well advised when it put the gold in Kentucky for safekeeping.

Mr. CLARK of Missouri. I would not question that for a moment. Mr. BARKLEY. Not that it would not have been just as safe in Missouri. I do not mean to cast any aspersion on Missouri on that account. However, the power in question does not deal with the gold in Kentucky. The amendment offered by the Senator from Connecticut [Mr. Danaher], if adopted, would make it possible for any American who was of a speculative disposition, and who was not particularly scrupulous about his methods, to sell American dollars. If he could sell enough of them he might drive down the price and obtain foreign exchange to advantage. Under the amendment offered by the Senator from Connecticut the President of the United States could not do anything to protect the dollar against that sort of manipulation if any American, through connivance with some foreigner or on his own account, should desire to manipulate the price of American dollars in order that he might obtain an advantage through dealing in foreign exchange.

Mr. WAGNER. The joint resolution does not absolutely prohibit any transaction. It simply contemplates, if an Executive order is issued, that each transaction be scrutinized to determine whether it was bona fide or accomplished through duress.

Mr. BARKLEY. That is right.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. CLARK of Missouri. I should like to say to the Senator from Kentucky that, of course, I made no objection to the selection of Kentucky as a site for the digging of the hole to put the money in. My remarks came about by reason of the remark of the Senator from New York that the purpose of the power was to prevent the flight of capital.

Of course, we have very efficaciously prevented the flight of capital by digging a hole and putting the money in the ground in Kentucky.

Mr. BARKLEY. The gold represents capital. It is not necessarily capital.

Mr. CLARK of Missouri. It is the capital itself.

Mr. BARKLEY. It is not all by any means the property of the United States.

Mr. CLARK of Missouri. But it has been taken away from citizens.

Mr. BARKLEY. I understand. The Government has not taken away any of the gold from citizens to whom it belonged. The gold has come into this country very largely in payment for goods which we sell to the nations of the world; and it is earmarked. We know how much of it belongs to any foreign country, and how much belongs to the Federal Reserve banks. Certificates of ownership are issued to the Federal Reserve banks showing their ownership in so much gold. It is not used, and may not be used, as part of our circulating medium. It is usable by the banks only in interbank transactions.

Mr. CLARK of Missouri. However, it is capital.

Mr. BARKLEY. Of course, it represents capital.

Mr. CLARK of Missouri. And it is buried in the ground.

Mr. BARKLEY. There is no danger of its being taken away or being subject to any flight of capital as long as it is protected by the Government of the United States. However, capital does not consist merely

in uncoined gold. There are many forms of capital. Capital may be represented by securities of coporations. Certainly, such capital is not buried in Kentucky or anywhere else, and would not be.

Mr. CLARK of Missouri. I agree entirely with the Senator as to that.

Mr. BARKLEY. The gold is buried in my State; and the hole is no bigger or no more odious because it is in Kentucky than it would be if it were in some other State.

Mr. CLARK of Missouri. I agree entirely with the Senator. The soil in Kentucky is very good.

Mr. BARKLEY. Gold is really still the basis of our circulating medium. After all, we are still on the gold standard, because the law says that the gold dollar is still the standard of value in the United States. So there is nothing insidious about the sequestration of gold.

Mr. CLARK of Missouri. Nobody complains about that; but the Senator will agree with me that the fact still remains that after many fine speeches by the President of the United States, by the Senator from Kentucky, by his predecessor as majority leader, and by many others, against hoarding, the Federal Government itself actually gave the greatest exhibition of hoarding in the history of the world by taking all the gold and putting it down in Kentucky. When the Senator from New York [Mr. Wagner] talks about preventing the flight of capital, I say that we have had the greatest exhibition of preventing the flight of capital that the world has ever seen.

Mr. BARKLEY. If the Senator contends that the protection and preservation of our monetary system is hoarding, all well and good. It may have been necessary for the Government of the United States to act on its own responsibility to hoard in order to keep the people from hoarding.

Mr. WAGNER. Mr. President, we are getting into a rather irrelevant discussion. I do not want the Senator to misquote me. I did not say that the purpose of the joint resolution is to prevent the flight of capital from this country. No such emergency now exists. A reading of the joint resolution shows very clearly what its purpose is. What I said was that the power to regulate transactions in foreign exchange in case of an emergency is already conferred by law, and that the power was exercised only once—in 1933. It was fortunate that the President had the power to issue an Executive order regulating such transactions, because speculation was going on in foreign exchange to the detriment of our national interests and national security. We had to do what all the European countries are doing today. They have all enacted laws to control their foreign exchange so as to prevent speculation against their currencies. So I do not want the Senator to misquote me on that point.

Mr. CLARK of Missouri. Mr. President, I am certain the Senator knows that I did not intend to misquote him.

Mr. WAGNER. Of course not.

Mr. CLARK of Missouri. But the Senator repeatedly used the term "preventing the flight of capital," and that was the occasion for my remarks.

Mr. WAGNER. The power was exercised once to prevent the flight of capital, and its exercise was welcomed by the whole country. The President exercised the power in no other case. The power has never

been abused, and has never been used except for the benefit of the country. That is why I say it is a unique procedure for a Senator to attempt to weaken the power of the President in a critical situation when no effort has been made in that direction during all these years since 1933. Nor was there any such effort made in the committee which met only a few days ago and unanimously reported the joint resolution.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. WAGNER. I yield for a question.

Mr. DANAHER. For a question; very well. Will the Senator please tell what is meant by "ownership of property," in lines 5 and 6, on page 2? What does the word "property" mean?

Mr. WAGNER. It reads "evidences of ownership."

Mr. DANAHER. Yes; but what does the word "property" include?

Mr. WAGNER. I think common stock would be an evidence of ownership. Does the Senator want to clarify that language?

Mr. DANAHER. I wondered if the Senator from New York would tell what the Senate what is meant by "property." It is his joint resolution.

Mr. WAGNER. I think everybody knows what "evidence of property" is. It is evidence one has that he owns certain property. If a person has common stock or a deed, he owns an interest in a certain enterprise or certain property. That is what the "evidence of ownership" means.

Mr. DANAHER. Is the Senator familiar with the definition which has been given by the Treasury Department in their regulations as to what they would undertake to control, if we should pass this joint resolution?

Mr. WAGNER. Does the Senator mean in the Executive order?

Mr. DANAHER. I ask if the Senator knows, if we should pass this joint resolution, what kind of property the Treasury Department would undertake to control?

Mr. WAGNER. I read the Executive order, and I think it is all right.

Mr. DANAHER. Will the Senator permit me to read it into the Record at this point?

Mr. WAGNER. The Senator can read it into the Record in his own time.

Mr. DANAHER. Very well. I ask if the Senator will permit me to do so now?

Mr. WAGNER. In his own time the Senator can do that.

Mr. DANAHER. I thank the Senator from New York.

Mr. GLASS. Mr. President, will the Senator from New York yield?

Mr. WAGNER. I yield to the Senator from Virginia.

Mr. GLASS. The Senator from Connecticut was present at the subcommittee meeting; he was present at the general meeting of the committee; and he heard the explanation of what was designed to be done, both from the Secretary of the Treasury and from the general counsel of the Treasury. He knows what the Attorney General construes concerning this proposed amendment to the existing law. He knows what the Under Secretary of the Treasury proposed, but the Senator from Connecticut sat there and never dreamed of offering one single, solitary suggestion. Now, however, he comes here and, without any hearing whatsoever, proposes to upset everything the committee has done. He has given us Solomonic exposition of the difficulties which are going to occur—not one of which has ever occurred. The

plain intent of the joint resolution, as the Senator knows perfectly well, is to prevent Germany from appropriating the property now in the United States belonging to the two nations she is now overwhelming. No other suggestion was made at all.

Mr. DANAHER. Let me say to the Senator from Virginia that I agree with that purpose, and hope we can achieve it.

Mr. GLASS. But the Senator is trying to upset it now, without any hearing whatsoever or any action by the committee of which he is a member; and he voted to report the joint resolution.

Mr. DANAHER. Mr. President, will the Senator from New York yield further?

Mr. WAGNER. I have yielded the floor.

Mr. DANAHER. Very well.

Mr. GLASS. I yield to the Senator from Connecticut.

Mr. DANAHER. I thank the Senator from Virginia.

Mr. WAGNER. Does the Senator from Connecticut desire to ask me a question?

Mr. DANAHER. No; I thought the Senator from New York had the floor, and I wanted to make certain. I thank the Senator.

Let me say to the Senator from Virginia what I am trying to have Senators realize in the consideration of the joint resolution is the very thing those members of the committee who were present at the committee meeting did not realize when they were there. Let me say to the Senator from Virginia that the Secretary of the Treasury came in and asked within the first 2 minutes he was there if he could turn over the explanation of the joint resolution to the general counsel of the Treasury, Mr. Foley, because he said, "I am a farmer; I do not know what the law is." That is what he said to us; that is all the explanation we got from Mr. Morgenthau. Then Mr. Foley undertook to explain it; and I will say to the Senator from Virginia that up to that minute we had never seen even a draft of this proposed resolution; and insofar as hearings are concerned, we had a hearing in which Mr. Foley, from the Treasury Department, undertook to explain what he said evidences of indebtedness and evidence of ownership of property meant.

Mr. GLASS. Did the Senator from Connecticut raise any objection to his explanation?

Mr. DANAHER. I certainly did not.

Mr. GLASS. Did the Senator ask him any questions?

Mr. DANAHER. Mr. President, let me say to the Senator from Virginia that I willingly and gladly voted to report the joint resolution from the committee; I would vote now to report the joint resolution, but I say to the Senator from Virginia that this is the place to consider this proposed legislation, and to consider it in its full intentment.

Mr. GLASS. The Committee on Banking and Currency is the place to consider the legislation and the matter which the Senator raises has never been brought to the attention of the Committee on Banking and Currency.

Mr. DANAHER. That is correct, and that is why we ought to consider it here.

Mr. WAGNER. Mr. President, if the Senator will yield to me, I wish to remind him that we did discuss in the committee some of the powers granted by the present act. It was then that the Senator from Virginia said to the Senator who raised the question, "Very well, do you

want to propose any amendment?" And the Senator said, "No; I do not propose any amendments." Then I, as chairman, said, "Is there anybody here who desires to suggest any amendment or is any further hearing required?" The committee, as the Senator knows—he was very much interested and sat right next to me——

Mr. DANAHER. Indeed, I was interested.

Mr. WAGNER. The committee unanimously voted approval of the joint resolution.

Mr. GLASS. Mr. President, my attitude was and is that I should like, in an orderly and right way, to prevent Germany from stealing the property of the nations it has undertaken to conquer, but if we cannot do it in that way, I am in favor of doing it in the wrong way.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. GLASS. Yes.

Mr. DANAHER. I respect the position of the Senator from Virginia; I respect his valuable assistance to the Senate in his many long years of service to our country. That is precisely what he told us in the committee. He said, "I am in favor of doing it the right way if we can, but I am in favor of doing it the wrong way if we cannot do it the right way." Is not that correct?

Mr. GLASS. Yes; certainly that is correct.

Mr. DANAHER. When the committee voted, as the Senator from New York says, it did not vote approval of the measure but voted to report it to the floor of the Senate. That is what we did do, and I am glad the committee reported it, because we are having an opportunity for the first time to let the people realize that instead of merely reaching property of Denmark and Norway, as was the announced purpose of the joint resolution, we are now extending the power of the President of the United States and the Secretary of the Treasury over all transactions described in the joint resolution of the people of the United States, regardless of where they may reside.

Mr. GLASS. No Member of this body has ever opposed delegation of power more than I have; I have voted against it every time; but this is not the way to circumscribe the President's power. A single Senator, who is not willing to go before his own committee, the Banking and Currency Committee, and present his proposition and have it there considered after hearing, brings it here on the floor without any hearing, without any committee action. I am utterly opposed to the proposition.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. GLASS. I yield.

Mr. BARKLEY. Is it not true that but for the doubt cast upon the exercise of the authority which the President thought he had, which the Treasury thought he had, and which the Attorney General held he had, this joint resolution would not be here?

Mr. GLASS. Of course not.

Mr. BARKLEY. The mere fact that Norway and Denmark happen to be the two nations with respect to which the proclamation and Executive order were issued does not make the joint resolution a law, as the Senator from Connecticut contends, that widens the powers of the President to do this thing, regardless of an emergency, but under the very act itself the President must declare an emergency to exist before he issues the Executive order.

Mr. GLASS. As a matter of fact, the best information was that he could do it under existing law.

Mr. BARKLEY. That is true.

Mr. GLASS. But it was desired to avoid the complications which might follow litigation. That is the only reason the joint resolution is here.

Mr. WAGNER. Mr. President, may I ask the Senator a question? I do not think he meant to say what he did say, that he wanted the people to know that we are now passing a law which may permit the President to deal with an emergency, no matter what country may be involved. That is the law today, and we are not attempting to amend the law in that respect. What the Senator proposes is to restrict the powers that have existed for 23 years, or at least since 1933.

Mr. DANAHY. Let me reply briefly and say to the Senator from Virginia that he should recall that a meeting was called for the Banking and Currency Committee for half-past two last Wednesday afternoon. If there was any Senator on our side of the aisle who knew the purpose of that meeting, I do not know who he was; certainly I did not. But, in any event, I was there at half-past two. I attended the meeting, which lasted at least 40 minutes, and Thursday afternoon, the following day, the Senator from New York undertook to tell the Senate that he did not know what was going to happen over night; that it was necessary to pass the joint resolution in about 8½ minutes, and he had to get unanimous consent for the purpose or else the dire result of the German invasion of Norway and Denmark would be visited upon the American people. I do not remember all he said, but the Record shows, and I made reference to it this morning. The fact of the matter is that he did not get unanimous consent then to consider the joint resolution, and it went over. We had Friday on which to transact business, and he did not call up the joint resolution on Friday. It was made the order of business for today, and today when he comes before the Senate and himself offers an amendment to the joint resolution and that amendment has been accepted.

Mr. President, now what he is proposing to do and what the joint resolution would do is to extend the existing power to evidences of indebtedness and evidences of ownership of property. The Treasury Department undertook to define property; and on April 10, 1940, this is what they were undertaking to control by this joint resolution. They were going to control the "property interests," which—

Shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, any debts, indebtedness or obligations, financial securities commonly dealt in by bankers, brokers, and investment houses, notes, debentures, stocks, bonds, coupons, bankers' acceptances, mortgages, pledges, liens or other bills in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, other evidences of title or ownership, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real-estate mortgages, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trade-marks, copyrights, insurance policies, safe-deposit boxes and their contents, annuities, etc.

Mr. President, those are the things over which the President is trying to get control.

Mr. GLASS. And that is what was done 23 years ago. He has control over them now. Unhappily, the Solomon from Connecticut was not here to prevail upon Congress to accept his view.

MR. DANAHER. Mr. President, I respect, of course, the senior Senator from Virginia. I am no Solomon from Connecticut or anywhere else; but if I were, Mr. President, and if I had been here in 1933, when the Senator from Virginia voted for the amendment to the act which struck out of the wartime powers this language regarding evidences of ownership and evidences of indebtedness, if I had thought it necessary and desirable I would have put it back in. The Senator from Virginia, a former Secretary of the Treasury, then knew that the President of the United States had no such peacetime power as would extend to that list of property under evidences of indebtedness. Consequently, it was purposely and willfully and legislatively omitted from the 1933 amendment, and it is not now in the law, and that is why the advocates of this measure are trying to put it in, and yet they say they are not trying to extend the power of the President to a hitherto unencompassed field. It is perfectly preposterous.

Mr. President, I do not claim to be any kind of a Solomon; but I do know that I have in my hand a piece of legislation which we are undertaking to construe, word by word, and find out what it means. In this case we are undertaking to extend the power of the President to hitherto unknown fields. If that is what the Congress of the United States wishes to do, it has the right to do it, but it should not do it in the name simply of protecting Danish and Norwegian securities against German sequestration. I am willing to do that. That may be done under the amendment I submitted, and under the joint resolution as drawn; but, Mr. President, let us not have any talk here to the effect that we had an opportunity to be heard, we had an opportunity to correct the law, we had an opportunity to do this and that. None of us ever saw this proposal until we entered the committee room. We have had a chance to see it since then, and we have had a chance to correlate it with the existing law; and we find that there is a usurpation and a brand new extension of authority and power.

For my part, I submit that the amendment which is pending will cure the situation, will permit the Treasury and permit the President to regulate and, in fact, prohibit the transfer of American-owned securities in which foreign governments or their nationals have an interest—Germany or anybody else. That can be accomplished; but there is no reason in the world why we should not limit the effect of the amendment in such fashion as that it will not inveigh against the normal peacetime operations of citizens of the United States.

MR. CONNALLY. Mr. President, I have listened to what the Senator from Connecticut has to say about the so-called extravagant grants of power to the President of the United States in this joint resolution. It seems to me the joint resolution should be enacted in substantially the form in which it was reported by the committee. If it is sound for us to adopt this policy with reference to cash and checks, why should we not extend it to certificates of indebtedness and the ownership of stocks? Are they any more sacred than cash?

I thought money—actual money, sure enough money, silver money, gold money, or paper money if it is backed by gold—was the desideratum of all stock operations, and checks, and everything else. It is cash. If the President is to be given authority over cash—he already has it, for that matter—why should we not include certificates of indebtedness of any kind, and ownership of stock certificate? If we do

not do that, we simply open up a loophole whereby there could be a pretended exchange of cash for stock certificates, and the stock certificates would not be subject to control, and the act would probably be nullified to that extent.

I see no harm in giving the President power to do those things. We in America certainly have a right to determine the conditions under which the property of foreigners may be transferred; have we not? Who has, if we have not? The joint resolution is general legislation. It is not to be enacted simply for the purposes of the present situation with regard to Denmark and Norway. It would have applied in the Spanish civil war. It would have applied in the war between Ethiopia and Italy.

It is applying now to the World War between the Allies on one side and Germany on the other side. So what is wrong with making it all-embracing? Either we should not take the step at all, or we should go the whole way. We should repeal the present act entirely, or we should make it comprehensive, so that it will operate in a fair and equitable manner.

If a foreigner has a certificate of stock in America, I take it that stock ought to be protected just as well as the money it represents.

Mr. BARKLEY. Mr. President, will the Senator yield at that point?

Mr. CONNALLY. I yield.

Mr. BARKLEY. Suppose an individual living in Denmark or Norway—they happen to be the two countries concerned now, but it might as well be an individual living in Belgium or Holland, if the situation should develop, or Italy, or some other country—has a million dollars in an American bank. Under the present law, nobody doubts that the President may protect that American money in an American bank to the credit of a foreigner. Suppose the same foreigner has a million dollars' worth of stock in General Motors or the Pennsylvania Railroad: The property represented by the stock is in the United States, but the stock may be in the capital of some nation that has been overrun by the troops of another nation.

Mr. CONNALLY. To be sure.

Mr. BARKLEY. By coercion, or duress, or some other influence, that stock might be delivered up to representatives of the invading government; and the result would be that by a sort of coercion or duress the million dollars, if the stock brought that amount on the market, could be taken charge of by the government that undertook to get it in that way.

Mr. CONNALLY. Exactly.

Mr. BARKLEY. What is the difference? All of the stock represents property in the United States, anyway.

Mr. CONNALLY. Certainly. I thoroughly agree with the Senator, and thank him for his observation.

For instance, the stock certificate might apparently be properly endorsed. It would not show the coercion. It would not show the bayonet sticking in the ribs of the man who owned it when he signed the transfer. I am talking about the citizen of Denmark, Norway, or any other foreign country. The transfer, the endorsement in blank of the certificate, would not reveal the bayonet sticking up right under the fifth rib of the owner of the certificate. It would not reveal the threat of the jail out yonder. There would be nothing about it that would enable

one to hear the clanking of the owner's chains if he did not sign the transfer.

But if we permit foreigners to invest their money here, we owe them some duty. We owe a duty to foreign countries; and when the nationals of those countries invest in our securities, we owe them at least the duty, if we can exercise it, of seeing that they are not defrauded, that they are not robbed, that they are not "highjacked" out of their property. We should do all we can to preserve the sanctity of investments if we permit foreigners to make them here at all. So it seems to me this proposed legislation is in the interest of good will and security.

How many foreigners would send their money over here if they knew in advance that we would be indifferent to its sanctity? Why are they now sending gold and securities to the United States? Because there is an international belief and an international faith in the integrity of the United States Government, and that it will protect and safeguard and secure the property even of aliens, that is legally and lawfully in the United States. I do not want to surrender anything of that kind. I do not want the United States to lose anything in the estimation of the world in regard to our willingness to treat aliens and foreigners in a fair and just and equitable manner. I think the enactment of this legislation will go a long way toward maintaining and sustaining that estimation of our attitude, and that its failure will subtract from that estimation which the world has.

MR. MINTON. Mr. President, will the Senator yield?

MR. CONNALLY. I yield to the Senator from Indiana.

MR. MINTON. As I understood the Senator from Connecticut [Mr. Danaher], he made some reference to extending to the rights of American citizens the powers in the hands of the President. As I understand, that would not occur unless the rights of American citizens were in some way related to the emergency which the President would announce in the beginning. Is that correct?

MR. CONNALLY. I did not hear everything the Senator from Connecticut said. The Senator from Connecticut is here, and I will yield to him, if he desires, to answer the Senator from Indiana on that point.

MR. MINTON. As I understood the Senator from Connecticut, he said that this joint resolution grants to the President of the United States a large power over the rights of American citizens. What I was inquiring was whether or not those powers over the rights of American citizens extended only to those citizens whose rights in some way related to the emergency.

MR. DANAHER. Does the Senator wish me to answer him?

MR. MINTON. Yes.

MR. CONNALLY. Briefly. I yield only for an answer to the question, not for an address.

MR. DANAHER. Let me say to the Senator from Indiana that all the joint resolution down to page 2, lines 5 and 6, applies only to American citizens. In one aspect of the matter, if we adopt the amendments that are contemplated in line 5, it may be said to apply to any evidence of indebtedness or any evidence of ownership of property in which any foreign government or a national thereof has an interest; and from then on, and to that extent, we have amended the existing law.

Does that answer the Senator's question?

Mr. MINTON. Yes; I think it answers my question, if I correctly understand the statement of the Senator to be that the property of the citizen will in some way be related to the country that is supposed to be in a condition of emergency.

Mr. GLASS. Mr. President, may I answer the question?

Mr. CONNALLY. I yield.

Mr. GLASS. It has been the law for 23 years. Can the Senator recall a single instance in which there has been complaint?

Mr. CONNALLY. I have heard no complaint, and I am sure that if there had been any complaint the Senator from Virginia would have hard about it.

Mr. MINTON. Does it not all come down finally to what the Senator from Virginia has just stated, namely, to the question whether or not we will trust the President to go ahead further with the exercise of this power which Presidents of the United States have had for 23 years?

Mr. CONNALLY. In essence, that is the question.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield to the Senator from Kentucky.

Mr. BARKLEY. The first two lines of the present law and of the pending joint resolution fix the conditions under which these things can be done.

Mr. CONNALLY. Certainly.

Mr. BARKLEY. "During time of war." That may be a war in which we are engaged, or it may not be; but, if we assume it is a war in which we are engaged, the President may do these things. "Or during any other period of national emergency declared by the President."

Mr. CONNALLY. Certainly.

Mr. BARKLEY. He has to declare an emergency before he can do any of the things referred to in the present law or in the pending joint resolution.

Mr. CONNALLY. I thank the Senator from Kentucky, the Senator from Indiana, the Senator from Virginia, and the Senator from Connecticut for their illuminating interruptions.

The matter involved is the title and ownership to the property affected. Whether it be a stock certificate, or a check, or a piece of money, it is all property. The object is to give the Government some power of regulation and control over the transfer of ownership.

If I go into a pawnbroker's shop and find my watch, which some light-fingered gentleman may have lifted from my pocket while I was at the theater, or in the Senate restaurant, or somewhere else, if the pawnbroker knew that that watch was stolen, he was guilty of a criminal offense and would be liable to be put into the penitentiary or the workhouse, because he accepted property knowing it to have been stolen. If a check goes into a bank bearing a fraudulent endorsement, and the bank has reasonable notice that the check is forged, though it does not have to know it absolutely, it gets no title to the money or the check by taking it.

So it is with the proposed amendment of the law. The bankers have raised the point that if evidences of indebtedness and certificates of stock are presented and are properly endorsed, so far as the surface is concerned, they must accept them, though they may have been ob-

tained by duress or through coercion or fraud. How can anyone object to giving the President, through his proper instrumentality, the right to investigate such a case? If such investigation shows that there was a proper transfer, that it was a transfer for value, that it was a transfer in good faith and upon honorable terms, does anyone contend that the President of the United States would decline permission to transfer the title? I do not think any Senator would so contend.

Mr. ADAMS. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. ADAMS. I desire to ask the Senator a question as to a definition. As I understand, the words to be added are "evidences of indebtedness." I was wondering whether the Senator was accurate in saying that that would include stock certificates.

Mr. CONNALLY. No; but is there not another clause? It says "evidences of ownership of property." I was following the thought of the Senators who are presenting the joint resolution, and their contention is that the language "evidences of ownership of property" would include stock certificates. In other words, a certificate is merely an evidence that one owns so many shares of stock. I may be in error.

Mr. ADAMS. I understood the Senator to be including stock certificates under evidences of indebtedness.

Mr. CONNALLY. No. I referred to evidences of ownership of property.

Mr. WAGNER. A bond would be an evidence of indebtedness.

Mr. CONNALLY. Of course.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. WAGNER. If it were possible to convert the property into cash, and an American citizen sent that cash to Denmark or Norway, under the amendment proposed by the Senator from Connecticut that would be a matter with which the President could not deal, as an emergency, at all, because the Senator now proposes to limit the power so that if an American citizen is interested, the regulations cannot apply. That would make the way wide open for all sorts of subterfuge.

Mr. CONNALLY. I thank the Senator from New York. It seems to me we should perfect the existing act by including all these kinds of property, or we should repeal it and do nothing about the matter at all.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. DANAHER. I merely wish to call to the attention of the Senator from New York the fact that there is no sense in the world in anyone's trying to claim either a debit or credit balance, respectively, in international exchange unless there is something tangible with which to make it good. The fact of the matter is that we have our gold buried here. In order to make good any credit balance, well established, if we do not make gold available under license, or furnish goods, no one gets it, and we always hold that control over it. That may be one answer to the Senator from New York.

Mr. CONNALLY. Suppose the Senator, anticipating a pleasure journey to Sweden or Denmark or Norway, should send over a certificate for \$2,000, or five thousand, according to the amount of pleasure he anticipated, and deposited it in a bank in Sweden or Denmark. He would not have to get foreign exchange. He would deposit it in a bank over there. That would meet the situation pointed out by the Senator.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. DANAHER. If that were an undertaking to which I might be committed, supposing I would anticipate two-fifths as much pleasure in the one case as in the other, the fact is that I would get none unless the President gave me a license.

Mr. CONNALLY. Frankly, if the Senator contemplated a trip to Denmark or Norway during the pendency of the present war, I think it would be wise for the President to refuse him funds and keep him at home, and not endanger his life, or his useful public service, the distinguished career which he has already initiated, and is pursuing with great vigor. [Laughter.]

Mr. DANAHER. Mr. President, will the Senator yield further for a question?

Mr. CONNALLY. I yield.

Mr. DANAHER. Will the Senator express his view as to how he would feel if he himself wanted to make a similar transaction with the Argentine, for instance, or with some other country in South America, wholly unrelated to the war, but nonetheless a foreign state?

Mr. CONNALLY. If there were an emergency which threatened the national welfare, why should I not suffer some inconvenience, if I could thereby contribute to the alleviation of the emergency? Many American soldiers went across 3,000 miles of ocean and died on the fields of France because we were in a national emergency.

Is it any hardship for a Senator, with a fine office, a big automobile, and all that, to withhold sending a little money to Argentine, or getting on a boat, if necessary, and going there if we are in a national emergency and if his remaining at home would lessen the emergency? I do not think so.

Mr. WILEY. Mr. President, I inquire what amendment of the Senator from Connecticut is now being considered.

The PRESIDING OFFICER [Mr. Hughes in the chair]. The amendment offered by the Senator from Connecticut [Mr. Danaher] is now before the Senate.

Mr. WILEY. Does the Senator's amendment deal with language on page 1 of the joint resolution?

The PRESIDING OFFICER. Yes; on page 1, line 11, and on page 2, lines 6, 7, and 8.

Mr. WILEY. Mr. President, I wish to speak briefly to the joint resolution itself. As I understand the purpose of the amendment offered by the Senator from Connecticut, it is to limit the power the President now has so that he may not exercise it in relation to transactions by American citizens. I wish briefly to state my ideas on that subject.

We know that last year in Europe, long before the Nazis struck, they infiltrated the countries they were going to strike with what we now recognize as the "fifth column." That "fifth column" has special application to the pending joint resolution. The Nazis would send a group into the country they meant to conquer. That group would become acquainted with the whole financial structure of that country—their corporations, directorates, holdings abroad, and so forth.

I happen to know that in Norway the majority of the stock of any Norwegian corporation must be owned by Norwegian citizens for the simple reason that then those citizens can determine who shall be the

directors of the corporation. Norway today has the third or fourth largest merchant marine in the world, and one way for the Nazis to obtain control of that merchant marine would be to get control of the majority of stock, and then vote themselves in as directors of the corporations. Americans are interested in some of these mercantile organizations.

Some months ago there was published in an American magazine an article written by a gentleman who had visited one of the countries of Europe and had seen how this infiltration went on.

Mr. President, we are interested in that situation not only for the reason that Norwegians and Swedes have investments in their own corporations but many Americans have investments in Norwegian and Swedish corporations in the same way that citizens of foreign countries have investments in our corporations. I feel that the object of the measure itself, and the amendment proposed by the Senator from New York particularly, is one to which we should give real consideration, and that the legislation should be passed.

I wish to refer to one other matter. By the passage of the joint resolution, which is virtually a reenactment of existing law, we give notice to the ruthless marauders and brigands of the world that, so far as America is concerned, we will protect the private property of the citizens of those nations which are ruthlessly invaded, and that we stand for international law, according to which the private property of a citizen in an invaded country may not be confiscated. Under the policy pursued by the invaders, private property now has no sacredness. It becomes the property of the invaders.

As to the particular amendment proposed by the Senator from Connecticut, it seems to me it presents the question whether or not we want to limit the President of the United States to the protection of the property in this country belonging to the citizens of foreign countries. I believe we should also protect the rights of the citizens of this country in their property interest in foreign corporations.

At this time I personally feel that the amendment proposed by the Senator from Connecticut should not be adopted.

* * * * *

THE PRESIDING OFFICER. The question is on the amendment offered by the Senator from Connecticut [Mr. Danaher].

The amendment was rejected.

MR. DANAHER. Mr. President, there is lying on the desk another amendment which I submitted on Friday last and which I now call up and offer at this time. That amendment is one which would provide that the joint resolution as amended would terminate on May 1, 1941. May it be stated at the desk, please?

THE PRESIDING OFFICER. The amendment offered by the Senator from Connecticut will be stated.

THE CHIEF CLERK. At the proper place it is proposed to insert the following:

This joint resolution, as amended, shall terminate May 1, 1941.

MR. DANAHER. Mr. President, this particular amendment presents no special question. In view of all the positions announced by those in charge of the joint resolution, and the grants of authority contained

in the joint resolution itself, and in view particularly of the fact that it is intended to apply to the national emergency as defined by the President, if we extend the act until May 1, 1941, Congress will return in January 1941, and will have been here 4 months by May 1, 1941. It will then be able to deal with the situation then confronting it, and if a further extension of the powers of the act is then called for, we can extend it just as we did with reference to the reciprocal trade agreements program. If, however, there is no longer any such emergency, then the powers herein conferred would terminate automatically on the date mentioned. That briefly is the purpose of the amendment.

Mr. WAGNER. I hope the amendment will not be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Connecticut [Mr. Danaher].

The amendment was rejected.

Mr. TAFT. Mr. President, I offer an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 2, line 1, after the word "credit", it is proposed to insert—

other than credits relating solely to transactions to be executed wholly within the United States.

Mr. TAFT. Mr. President, I have sufficient sympathy with the purposes of the pending joint resolution so that I do not like to oppose it, but it seems to me that as Members of the Congress we certainly would stultify ourselves if we should vote of the joint resolution without some such amendment. No other measure, so far as I know, has proposed to delegate such completely arbitrary powers to the President of the United States to all kinds of transactions. So far as I can see, under this joint resolution he could issue tomorrow regulations which would require me to obtain a license before I could draw a check on my own bank account in any bank of the United States without any reference whatever to foreign affairs, or any reference to anything except the fact that there is a transfer of credit involved in my checking on my account in any bank in the United States.

The joint resolution, in the first place, uses the words "during time of war."

I assume that means during time of war in which the United States is engaged, although the term is ambiguous and subject to interpretation. The President might say that it meant whenever any war was going on anywhere in the world—and there nearly always is a war going on at some place—or during any other period of national emergency declared by the President.

Frankly, Mr. President, that does not mean anything. It means that at any time, under any circumstances, the President may go ahead and exercise the powers. As proof of that fact, the President actually did issue regulations under that provision of national emergency in 1934, and those regulations have been continuously in effect ever since that time. Presumably, therefore, the President considers that we have been in a perpetual state of national emergency ever since 1934. What that emergency is, I do not profess to understand, unless it is one brought about by the measures we have taken to try to restore prosperity.

The joint resolution then says in effect, therefore, that at any time the President may proceed to regulate what? First, transactions in for-

oreign exchange; second, transfers of credit between or payments by or to banking institutions as defined by the President. That is not related to any foreign government; it is not related to any foreign transaction; it is not related to anything except transfers of credit between banking institutions or payments by banking institutions, which covers every single payment on every check which may be drawn in the United States.

Originally, when this act was passed during the war, the words which I seek to insert by the pending amendment were in the act. They did specifically exempt transactions which were entirely within the United States and entirely completed within the United States. That was at least some limitation. Congress felt that even in time of war we ought to have that limitation, and ought not to try to confer such broad powers. If there is no war, it certainly seems that those words should be inserted, so that at least this measure may be confined to foreign transactions.

The new words which are proposed to be inserted in the law prohibit, without license, any transfer, withdrawal, or exportation of, or dealing in, any evidence of indebtedness or evidence of ownership of property in which any foreign state or a national or political subdivision thereof has any interest. That means that because there is a war in Europe the President may prohibit any citizen of the Argentine, say, from transferring any bank account in the United States or drawing any check in the United States. Of course, it is said that the President is not going to exercise those powers; but if he is not going to exercise them, then we should not grant him the powers. We have on the books a long series of statutes giving to the President various kinds of emergency powers. The time has come when Congress should assume its own function of legislation, when it should not delegate to the President arbitrary power; and after this amendment shall have been disposed of I propose to offer another amendment providing that this power shall apply only to any foreign state which the President finds to be involved in actual warfare.

A much more far-reaching principle is involved here than the question of whether we are going to prohibit credits for Norway and Denmark. It seems to me this legislation could have been so drawn as simply to give the President the powers he may actually have to exercise in real emergencies between now and the time Congress returns. I can see no reason why we should give the President power to regulate by license, if he sees fit to do so, without further action by Congress, every transfer of every bank account of any individual in the United States.

I cannot understand from the author of the joint resolution what possible objection there can be to inserting in it these words, which were in the law for a long time. They were taken out, as I understand, in order that President might have during the bank emergency the extraordinary power to close the banks; and the proof that this measure does apply to domestic transactions is that this is the statute, and the words "transfers of credit between or payments by or to banking institutions as defined by the President" are the words under which the President of the United States closed every bank in the United States and forbade any bank to pay any check that any individual might draw.

Mr. WAGNER. Mr. President, I hope the amendment will not be adopted. The arguments which have been made as to the changes proposed by the Senator from Connecticut [Mr. Danaher] apply with equal force to that now proposed by the Senator from Ohio.

Mr. TAFT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Gillette	Overton
Ashurst	Glass	Pittman
Austin	Guffey	Reed
Bailey	Gurney	Reynolds
Bankhead	Hale	Russell
Barbour	Harrison	Schwartz
Barkley	Hatch	Schwellenbach
Bilbo	Hayden	Sheppard
Bone	Herring	Shipstead
Bridges	Hill	Slattery
Brown	Holman	Smathers
Bulow	Hughes	Smith
Burke	Johnson, Calif.	Stewart
Byrd	Johnson, Colo.	Taft
Capper	King	Thomas, Idaho
Caraway	La Follette	Thomas, Okla.
Chandler	Lodge	Thomas, Utah
Chavez	Lucas	Tobey
Clark, Idaho	Lundeen	Townsend
Clark, Mo.	McKellar	Truman
Connally	McNary	Tydings
Danaher	Maloney	Vandenberg
Donahey	Mead	Van Nuys
Downey	Miller	Wagner
Ellender	Minton	Walsh
Frazier	Murray	Wheeler
George	Norris	White
Gerry	O'Mahoney	Wiley

The PRESIDENT pro tempore. Eighty-four Senators having answered to their names, a quorum is present.

The question is on agreeing to the amendment offered by the Senator from Ohio [Mr. Taft].

The amendment was rejected.

Mr. TAFT. Mr. President, I offer an amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed to insert on page 2, line 6, after the word "state", the words "which the President finds to be involved in actual warfare."

Mr. TAFT. Mr. President, the purpose of the amendment is to confine the operations of the act to those nations which are in some way involved in war, or the nationals of such countries, and not give the President power to limit transactions which may be related to Argentina or any other South American country, or any other country throughout the world.

I have made the language somewhat broader than that of the neutrality act, making it apply to any foreign state "which the President finds to be involved in actual warfare." I think that would cover Denmark and Norway, as well, as other nations. Denmark is certainly now

involved in the World War, having been invaded by the German Army, and being administered by the German Army. I see no reason why the contemplated powers should be granted regarding securities of Argentine citizens, for instance, so that such a citizen living in this country would be subject to any kind of regulation.

Mr. WAGNER. Mr. President, I hope the amendment will not be agreed to. It would actually exclude Denmark altogether, because they are not involved in any war at all.

The PRESIDENT pro tempore. The question is on agreement to the amendment.

The amendment was rejected.

The PRESIDENT pro tempore. The question now is on the engrossment and third reading of the joint resolution.

The joint resolution (S. J. Res. 252) was ordered to be engrossed for a third reading, read the third time, and passed.

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4. Senate Report

Amending Section 5(b) of the Act of October 6, 1917, as Amended, Senate Report No. 1496, 76th Congress, 3d Session, To Accompany S.J. Res. 252, April 24, 1940¹

The Committee on Banking and Currency, to whom was referred the joint resolution (S. J. Res. 252) to amend section 5(b) of the act of October 6, 1917, as amended, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

The provisions of the resolution were recommended to Congress by the Secretary of the Treasury.

The purpose of the resolution is to remove any doubt that section 5(b) of the act of October 6, 1917, as amended, authorizes the President to regulate transactions in evidences of indebtedness and evidences of ownership of property in which foreigners have an interest, and to require reports concerning all foreign-owned property.

The resolution is made necessary by certain questions which have arisen in connection with Executive order of April 10, 1940, and regulations issued thereunder by the Secretary of the Treasury. The order and regulations were issued pursuant to the authority conferred by section 5(b) of the act of October 6, 1917, as finally amended by section 2 of the act of March 9, 1933. The order and regulations have imposed certain restrictions on transactions in property in which Norway and Denmark or nationals thereof have an interest and have set up a system of licensing transactions in such property.

The Treasury Department has ruled that the order and regulations of April 10, 1940, apply to transactions in Danish and Norwegian stock and other securities which unquestionably constitute a substantial portion of the property of those countries situated in the United States. With this interpretation of the statute, the order and regulations this committee is in agreement. It believes that when Congress enacted the act of March 9, 1933, it intended to grant to the President all of the powers conferred upon him by section 5(b) of the act of October 6, 1917, and to authorize him to exercise all of such powers not only in time of war, but during any other period of national emergency. Under the original provision there is no doubt that the President was authorized to regulate transactions in stock and other securities, etc. Notwithstanding this apparent intention of the Congress, a few lawyers for banking institutions have expressed doubts as to whether the President is authorized to regulate transactions in foreign-owned stock and securities. The committee is convinced that the matter is of such great importance that doubts of this character should immediately be removed by a clarifying amendment. Not only is authority to regulate transactions in stock and other securities

¹ House Report No. 2009 of April 25, 1940, accompanying H.J. Res. 522, is virtually identical.

essential to the system of control already in force, but it may be of even greater importance if it becomes necessary to extend such control to property of other countries which to an even greater extent is in the form of stock and securities. Such an amendment will also serve to protect Americans complying with the order. The banks, in particular, would favor such a clarifying amendment.

The action taken by the President and the Treasury Department in regulating transactions in Danish and Norwegian property has received the unanimous approval of the public. Section 2 of the resolution provides Congress with a means of expressing its agreement as to the soundness, wisdom, and propriety of such action. Documents indicating the exact character of the action taken are printed as a part of this report.

Your committee believes that the resolution is meritorious legislation and should be promptly enacted into law.

APPENDIX

EXECUTIVE ORDER OF APRIL 10, 1940, REGULATIONS OF THE SECRETARY OF THE TREASURY OF APRIL 10, 1940, AND GENERAL RULINGS ISSUED THEREUNDER

EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER NO. 6560, DATED JANUARY 15, 1934, REGULATING TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND THE EXPORT OF COIN AND CURRENCY

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended by section 2 of the Act of March 9, 1933 (48 Stat. 1), and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 6560, dated January 15, 1934, regulating transactions in foreign exchange, transfers of credit, and the export of coin and currency by adding the following sections after section 8 thereof:

"SECTION 9. Notwithstanding any of the provisions of sections 1 to 8, inclusive of this Order, all of the following are prohibited, except as specifically authorized in regulations or licenses issued by the Secretary of the Treasury pursuant to this Order, if involving property in which Norway or Denmark or any national thereof has at any time on or since April 8, 1940, had any interest of any nature whatsoever, direct or indirect:

"A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside of the United States, of a banking institution within the United States);

"B. All payments by any banking institution within the United States;

"C. All transactions in foreign exchange by any person within the United States:

"D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States; and

"E. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

"SECTION 10. *Additional Reports.*

"A. Reports under oath shall be filed, on such forms, at such time or times and from time to time, and by such persons, as provided in regulations prescribed by the Secretary of the Treasury, with respect to all property of any nature whatsoever of which Norway or Denmark or any national thereof is or was the owner, or in which Norway or Denmark or any national thereof has or had an interest of any nature whatsoever, direct or indirect, and with respect to any acquisition, transfer, disposition, or any other dealing in such property.

"B. The Secretary of the Treasury may require the furnishing under oath of additional and supplemental information, including the production of any books of

account, contracts, letters or other papers with respect to the matters concerning which reports are required to be filed under this Section.

"SECTION 11. *Additional Definitions.*—In addition to the definitions contained in Section 7, the following definitions are prescribed:

"A. The terms 'Norway' and 'Denmark', respectively, mean the State and the Government of Norway and Denmark on April 8, 1940, and any political subdivisions, agencies, and instrumentalities thereof, including territories, dependencies, and possessions, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing. The terms 'Norway' and 'Denmark', respectively, shall also include any and all other governments (including political subdivisions, agencies, and instrumentalities thereof and persons acting or purporting to act directly or indirectly for the benefit or on behalf thereof) to the extent and only to the extent that such governments exercise or claim to exercise de jure or de facto sovereignty over the area which on April 8, 1940, constituted Norway or Denmark.

"B. The term 'national' of Norway or Denmark shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of Norway or Denmark at any time since April 8, 1940, but shall not include any individual domiciled and residing in the United States on April 8, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on April 8, 1940, had its principal place of business in Norway or Denmark or which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of Norway or Denmark at any time on or since April 8, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

"C. The term 'banking institution' as used in section 9 includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and each principal, agent, home office, branch, or correspondent of any person so engaged shall be regarded as a separate 'banking institution.'

"SECTION 12. *Additional Regulations.* The Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of sections 9 to 11, inclusive, of this Order, and except as so modified are hereby continued in full force and effect. The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of sections 9 to 11, inclusive, of this Order as amended, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by such agencies as the Secretary of the Treasury may designate."

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
April 10, 1940, 6 p.m., E.S.T.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
April 10, 1940.

REGULATIONS RELATING TO TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, PAYMENTS, AND THE EXPORT OR WITHDRAWAL OF COIN, BULLION AND CURRENCY; AND TO REPORTS OF FOREIGN PROPERTY INTERESTS IN THE UNITED STATES¹

SECTION 130.1. *Authority for regulations.* These regulations are prescribed and issued under authority of Section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended by Section 2 of the Act of March 9, 1933 (48 Stat. 1), and Executive Order No. 6560, dated January 15, 1934, as amended.¹

¹ Secs. 130.1 to 130.6; sec. 5(b), 40 Stat. 415 and 966; sec. 2, 48 Stat. 1; 12 U.S.C. 95a; Ex. Order 6560, Jan. 15, 1934; Ex. Order 8389, Apr. 10, 1940.

SECTION 130.2. *Definitions.*

(a) The term "Order" shall refer to Executive Order No. 6560, of January 15, 1934, as amended.

(b) The term "regulations" shall refer to these regulations.

(c) The terms "property" and "property interest" or "property interests" shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, any debts, indebtedness or obligations, financial securities commonly dealt in by bankers, brokers, and investment houses, notes, debentures, stocks, bonds, coupons, bankers' acceptances, mortgages, pledges, liens or other right in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, other evidences of title or ownership, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, vendors' sales agreements, and contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trade-marks, copyrights, insurance policies, safe deposit boxes and their contents, annuities, et cetera.

(d) Safe deposit boxes shall be deemed to be in the "custody" not only of all persons having access thereto but also of the lessors of such boxes whether or not such lessors have access to such boxes. The foregoing shall not in any way be regarded as a limitation upon the meaning of the term "custody".

(e) For the meaning of other terms reference should be made to the definitions contained in the Order.¹

SECTION 130.3. *Licenses to engage in foreign exchange transactions, et cetera.* Applications for licenses to engage in foreign-exchange transactions, transfers of credit, payments, or the export or withdrawal from the United States or the earmarking of gold or silver coin or bullion or currency, involving property in which Norway or Denmark or any national thereof has at any time on or since April 8, 1940, had any interest of any nature whatsoever, direct or indirect, shall to filed in duplicate with the Federal Reserve bank of the district in which the applicant resides or has his principal place of business or principal office or agency, or with the Federal Reserve Bank of New York if the applicant has no legal residence or principal place of business or principal office or agency in a Federal Reserve district. Application forms may be obtained from any Federal Reserve bank, mint or assay office, or the Secretary of the Treasury, Washington, D.C. Applications shall be executed under oath before an officer authorized to administer oaths, or if executed outside of the United States, before a diplomatic or consular officer of the United States. The applicant shall furnish such further information as shall be requested of him by the Secretary of the Treasury or the Federal Reserve bank at which the application is filed. Licenses will be issued by the Secretary of the Treasury, acting directly or through any agencies that he may designate, and by the Federal Reserve banks acting in accordance with such rules, regulations, and instructions as the Secretary of the Treasury may from time to time prescribe, in such cases or classes of cases as the Secretary of the Treasury may determine in rules, regulations, and instructions prescribed by him. The Federal Reserve bank at which an application is filed will advise the applicant of the granting or denial of the license. When the transaction authorized by the license has been completed the license should be returned by the licensee to the Federal Reserve bank at which the application was filed, except in the case of licenses for the export or withdrawal of currency or gold or silver coin or bullion, in which case the license, after having been cancelled by the collector of customs or the postmaster through whom the exportation or withdrawal was made, shall be sent by such collector of customs or postmaster to the Federal Reserve bank at which the application was filed. Appropriate forms for applications and licenses will be prescribed by the Secretary of the Treasury. Licensees may be required to file reports upon the consummation of the transactions. The decision of the Secretary of the Treasury with respect to the approval or disapproval of an application shall be final.¹

SECTION 130.4. *Reports of Property Interests of Norway and Denmark and Nationals Thereof.*

(a) Within ten days from the publication of these regulations in the Federal Register, report shall be filed on Form TFR-100, duly executed under oath, containing the information called for in such Form, with respect to all property situated in the United States on the date as of which the report is made in which Norway or Denmark or any national thereof has at any time on or since April 8,

1940, had any interest of any nature whatsoever, direct or indirect. Such reports shall be filed by—

(1) Every person in the United States directly or indirectly holding or having title to, or custody, control, or possession of, such property including, without any limitation whatsoever of the foregoing, every partnership, association, or corporation organized under the laws of the United States or any state or territory of the United States, or having its principal place of business in the United States, in the shares of whose stock or in whose debentures, notes, bonds, coupons, or other obligations or securities Norway or Denmark or any national thereof has at any time on or since April 8, 1940, had any interest of any nature whatsoever, direct or indirect; and

(2) Every agent or representative in the United States for Norway or Denmark or any national thereof having any information with respect to any such property. *Provided*, That no report on Form TFR-100 need be filed where the total value of all property interests to be reported is less than \$250.

(b) The date as of which all reports on Form TFR-100 are required to be made is April 8, 1940.

(c) At the close of every business day in which there shall occur any acquisition, transfer, disposition, or any other dealing in any of the property interests designated in paragraph (a) above, a report or reports, on Form TFR-200, duly executed under oath, containing the information called for in such Form shall be filed by every person, agent, et cetera, referred to in paragraph (a) above, *provided, however*, that such reports for the ten-day period from the date of publication of these regulations in the Federal Register, may be filed at any time within such ten-day period.

(d) Neither filing nor the failure to file a report or reports required to be filed on Form TFR-100, nor the absence of a duty to file such report or reports shall in any way affect the duty to file a report or reports on Form TFR-200, and vice versa.

(e) Reports shall be executed and filed in triplicate with the Federal Reserve bank of the district in which the party filing the report resides or has his principal place of business or principal office or agency, or if such party has no legal residence or principal place of business or principal office or agency in a Federal Reserve district, then with the Federal Reserve Bank of New York. A report shall be deemed to have been filed when it is received by the proper Federal Reserve bank or when it is properly addressed and mailed and bears a postmark dated prior to midnight of the date upon which the report is due. At the close of each business day the Federal Reserve bank shall forward two executed copies of every report filed on that day to the Secretary of the Treasury.

(f) (1) All spaces in the report must be properly filled in. Reports found not to be in proper form, or lacking in essential details, shall not be deemed to have been filed in compliance with the Order.

(2) Where space in the report form does not permit full answers to questions, the information required may be set forth in supplementary papers incorporated by reference in the report and submitted therewith. Supplementary documents and papers must be referred to in the principal statement in chronological or other appropriate order and be described in such manner that they can be identified.

(g) A separate report under oath must be filed by each person required to file a report except that persons holding property jointly may file a joint report.

(h) Upon a written request made to the Secretary of the Treasury by a party required to file a report, setting forth reasons why the report cannot be filed on or before the date such report is due, the Secretary of the Treasury, in his discretion, may grant such an extension of time for making the report as under the circumstances shall appear to be required.

(i) Report Forms TFR-100 and TFR-200 may be obtained from any Federal Reserve bank, mint, or assay office and the Secretary of the Treasury, Washington, D.C.

SECTION 130.5. *Penalties.* Section 5(b) of the Act of October 6, 1917, as amended by Section 2 of the Act of March 9, 1933, provides in part:

“* * * Whoever willfully violates any of the provision of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a

like fine, imprisonment, or both. As used in this subdivision the term 'person' means an individual, partnership, association, or corporation."¹

SECTION 130.6. *Modification or Revocation.* These regulations and any forms or instructions issued hereunder may be modified or revoked at any time.¹

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

Approved April 10, 1940.

FRANKLIN D. ROOSEVELT.

GENERAL RULING No. 1 UNDER EXECUTIVE ORDER No. 8389, APRIL 10, 1940, AND REGULATIONS ISSUED PURSUANT THERETO, RELATING TO TRANSACTIONS IN FOREIGN EXCHANGE, ETC.

The Secretary of State has advised me as follows:

"Denmark and Iceland are two separate political entities. Acting under the authority of a provision of the Icelandic Constitution the Icelandic Parliament has, within the past few days, passed a resolution stating that since the King of Iceland is not now in a position to carry out his Constitutional duties with respect to Iceland, the Icelandic Government has assumed for the time being the exercise of the Royal prerogatives and the entire control of Icelandic foreign relations.

"In view of the foregoing it would not appear that Iceland falls within the definition of the term 'Denmark' in Section 11 of the above-mentioned Executive Order."

In view of the foregoing, the Treasury Department construes the term "Denmark" as used in the above-mentioned Executive Order and Regulations as not applying to Iceland.

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

Dated APRIL 15, 1940.

GENERAL RULING No. 2 UNDER EXECUTIVE ORDER No. 8389, APRIL 10, 1940, AND REGULATIONS ISSUED PURSUANT THERETO, RELATING TO TRANSACTIONS IN FOREIGN EXCHANGE, ETC.

Inquiry has been made as to whether the following are prohibited by the Executive Order and the Regulations issued thereunder except under license:

(a) The transfer by a banking institution within the United States of stock certificates from or into the names of "nationals" of Norway or Denmark; and

(b) The delivery out of custody accounts or the receipt in custody accounts by a banking institution within the United States, of securities held or to be held in custody for "nationals" of Norway or Denmark.

The Treasury Department construes the Executive Order and Regulations as prohibiting such transactions, except under license.

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

Dated APRIL 19, 1940.

The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1861. The letter is signed by James Buchanan and is addressed to the Senate and House of Representatives. The letter is a formal communication and is written in a dignified and official style. It discusses the state of the Union and the actions of the President during his term. The letter is a significant historical document and is a key part of the record of the Presidency of James Buchanan.

The second part of the document is a report from the Secretary of the Treasury, dated January 1, 1861. The report is signed by William A. Richardson and is addressed to the Senate and House of Representatives. The report is a formal communication and is written in a dignified and official style. It discusses the state of the Treasury and the actions of the Secretary during his term. The report is a significant historical document and is a key part of the record of the Secretaryship of William A. Richardson.

The third part of the document is a report from the Secretary of the Interior, dated January 1, 1861. The report is signed by John P. Kennedy and is addressed to the Senate and House of Representatives. The report is a formal communication and is written in a dignified and official style. It discusses the state of the Interior and the actions of the Secretary during his term. The report is a significant historical document and is a key part of the record of the Secretaryship of John P. Kennedy.

The fourth part of the document is a report from the Secretary of the War, dated January 1, 1861. The report is signed by George B. Frisbie and is addressed to the Senate and House of Representatives. The report is a formal communication and is written in a dignified and official style. It discusses the state of the War and the actions of the Secretary during his term. The report is a significant historical document and is a key part of the record of the Secretaryship of George B. Frisbie.

The fifth part of the document is a report from the Secretary of the Navy, dated January 1, 1861. The report is signed by Gustavus Franklin Frisbie and is addressed to the Senate and House of Representatives. The report is a formal communication and is written in a dignified and official style. It discusses the state of the Navy and the actions of the Secretary during his term. The report is a significant historical document and is a key part of the record of the Secretaryship of Gustavus Franklin Frisbie.

G. First War Powers Act, 1941

1. Partial Text of Act

55 Stat. 839, 12 U.S.C. 95a, 50 U.S.C. App. 5, Approved December 18, 1941

* * * * *

TITLE III—TRADING WITH THE ENEMY

SEC. 301. The first sentence of subdivision (b) of section 5 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, is hereby amended to read as follows:

“(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

“(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

“(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if

necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

"(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

"(3) As used in this subdivision the term 'United States' means the United States and any place subject to the jurisdiction thereof, including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas: *Provided, however,* That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision."

SEC. 302. All acts, actions, regulations, rules, orders, and proclamations heretofore taken, promulgated, made, or issued by, or pursuant to the direction of, the President or the Secretary of the Treasury under the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, which would have been authorized if the provisions of this Act and the amendments made by it had been in effect, are hereby approved, ratified, and confirmed.

SEC. 303. Whenever, during the present war, the President shall deem that the public safety demands it, he may cause to be censored under such rules and regulations as he may from time to time establish, communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or Territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall, upon conviction, be fined not more than \$10,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States.

2. Senate Debate of December 16, 1941 (Excerpts)

87 Cong. Rec. 9837-38, 9842, 9845

* * * * *

REENACTMENT OF OVERMAN AND TRADING WITH THE ENEMY ACTS

Mr. BARKLEY. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 948, Senate bill 2129, to expedite the prosecution of the war effort. This is a bill from the Committee on the Judiciary which in substance provides a reenactment of certain provisions of the so-called Overman Act of 1917, and the Trading With the Enemy Act of 1917. I shall not make a statement about it at this time.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 2129) to expedite the prosecution of the war effort.

* * * * *

REENACTMENT OF OVERMAN AND TRADING WITH THE ENEMY ACTS

The Senate resumed consideration of the bill (S. 2129) to expedite the prosecution of the war effort.

Mr. VANDENBERG. Mr. President, I am unwilling to have the Senate proceed to the consideration of a measure of this magnitude with only 10 or 12 Members on the floor. I suggest the absence of a quorum.

The PRESIDENT OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Connally	La Follette
Austin	Danaher	Langer
Bailey	Davis	Lee
Ball	Downey	Lodge
Bankhead	Doxey	Lucas
Barkley	Ellender	McCARRAN
Bilbo	George	McFarland
Brewster	Gerry	McKellar
Bridges	Gillette	McNary
Brooks	Glass	Maloney
Brown	Green	Maybank
Bulow	Guffey	Mead
Bunker	Gurney	Murdock
Burton	Hatch	Murray
Butler	Hayden	Norris
Byrd	Herring	Nye
Capper	Hill	O'Daniel
Caraway	Holman	Overton
Chandler	Hughes	Pepper
Chavez	Johnson, Calif.	Radcliffe
Clark, Idaho	Johnson, Ohio	Reed
Clark, Mo.	Kilgore	Reynolds

Rosier
 Russell
 Schwartz
 Shipstead
 Smathers
 Smith
 Spencer
 Stewart

Taft
 Thomas, Idaho
 Thomas, Okla.
 Thomas, Utah
 Tobey
 Truman
 Tunnell
 Tydings

Vandenberg
 Van Nuys
 Wallgren
 Walsh
 Wheeler
 White
 Wiley
 Willis

The PRESIDING OFFICER (Mr. Doxey in the chair). Ninety Senators have answered to their names. A quorum is present. Senate bill 2129 is before the Senate and is open to amendment.

Mr. McNARY. Mr. President, I had assumed that the able Senator in charge of the bill would make a very thorough, frank, and open statement concerning the provisions of the bill, and particularly with reference to any amplification of what is known as the old Overman Act, passed in 1917, and whether the measure now under consideration exceeds the Overman Act in authority. I am sure the able Senator from Indiana can inform us in an enlightened way on this measure and its objectives.

Mr. VAN NUYS. Mr. President, I am very happy to comply with the suggestion of the Senator from Oregon, and to give a brief history of the bill. The bill was prepared in the Department of Justice; and at the request of the Department, I introduced it, and it was referred to the Committee on the Judiciary. Yesterday the Attorney General, together with members of his staff, appeared before the full Committee on the Judiciary. There was a good attendance of the committee, and from 10:30 to 12:30 the bill was analyzed with care and study. Certain suggestions were made by members of the committee, and accepted by the Attorney General, more as to the matter of phraseology than as to the material terms of the bill. Late last evening the whole committee voted unanimously to approve the bill.

In a nutshell, the bill grants to the President of the United States the same war powers that were exercised by President Wilson during the last World War—and exercised by him with a great degree of success.

Title I of the bill reenacts the measure mentioned by the Senator from Oregon, commonly known as the Overman Act, which was approved May 20, 1918.

Mr. VANDENBERG. Mr. President, will the Senator yield for a question?

Mr. VAN NUYS. I yield

Mr. VANDENBERG. Before the Senator from Indiana leaves his statement that the bill is a general reenactment of the war powers given President Wilson, will the Senator indicate whether the bill in any respect goes beyond the war powers yielded to President Wilson?

Mr. VAN NUYS. It does so not in reference to the Overman Act, under title I; but when it comes to the Trading With the Enemy Act, in the provisions for seizure and freezing of alien property, it goes further, and not only freezes it, but seizes the property; possession of it vests in the United States, and the property is to be liquidated and disposed of under the rules and regulations of the Department. To that extent it exceeds the powers granted President Wilson.

* * * * *

Mr. McNARY. Let me ask one further question, with respect to section 401 on page 9. In one instance the authority proposed to be conferred by the bill appears to be limited to the present emergency, or any emergency declared by the President, which would extend it over the period of the war. The saving clause, as I construe it, is that this authority may be repealed or modified by a concurrent resolution which, of course, contemplates action by the House and Senate without reference to the President for his signature. The authority continues during the war, or during any emergency that may be declared by the President.

Mr. VAN NUYS. The original draft, which the committee modified was that:

Titles I and II of this act shall remain in force during the continuance of the present war and for 6 months after the termination of the war, or until such earlier time as may be proclaimed by the peace treaty.

The Senator from Texas [Mr. Connally] who is a member of the committee, called attention to the fact that the last peace treaty was a year or two after the actual termination of the war. So we struck out that language and inserted "until such earlier time as the Congress by concurrent resolution or the President may designate."

Mr. McNARY. The language to which I refer is found on page 4, under the heading "Title III—Trading with the enemy." The language is:

During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe—

And so forth. I am wondering if that can be construed in the light of the provision which I read on page 9, by which the act could be modified or repealed by concurrent action of the House and Senate. Does that language apply to every provision of the bill?

Mr. VAN NUYS. It applies to titles I and II. Title I has its own limitation on page 2, line 16:

Provided further, That the authority by this title granted shall be exercised only in matters relating to the conduct of the present war.

Mr. McNARY. I rather think that the language to which I refer relates to titles I and II, which may be repealed by concurrent action. I probably would not have asked the question if I had had time to read the bill, but it has been on my desk only a short time today.

Mr. VAN NUYS. The language to which the Senator refers relates to titles I and II.

Mr. McNARY. That is correct.

* * * * *

Mr. VANDENBERG. Mr. President, may I ask the Senator from Indiana for one bit of further information?

Mr. VAN NUYS. Certainly.

Mr. VANDENBERG. Am I correct that the only censorship provision is in section 303 on page 8, and that such censorship as is there provided applies only to the transmission of communications between the United States and any foreign country, and that there is nothing in the bill which involves censorship of any form of internal communications or publications in the United States?

Mr. VAN NUYS. The Senator from Michigan is entirely correct. That subject was threshed out in detail with the Attorney General, all members of the committee participating. There is in the bill not a word which would authorize the President to exercise censorship over newspapers or messages within the United States. The provision deals wholly with outgoing messages from America to foreign countries.

Mr. VANDENBERG. Or incoming messages from foreign countries.

Mr. VAN NUYS. It is very difficult to censor such messages. For instance, a newspaper might have a short-wave receiver.

Mr. VANDENBERG. Yes; but it carries the power to do so?

Mr. VAN NUYS. Yes; it carries the power.

Mr. VANDENBERG. Very well.

One final question, and I am done.

Has the Senator now stated to the Senate all the powers in this proposed legislation which exceed the powers granted to President Wilson under the Overman Act and the Trading With the Enemy Act?

Mr. VAN NUYS. I think so. I have not yet taken up title III. That is the amendment to the Trading With the Enemy Act. As I remember, it is an exact copy of the former statute, except that in some instances it goes a little further. For instance, in the case of the Alien Property Custodian's Office, or such agency as may take the place of the former Alien Property Custodian's Office, the Attorney General informed us that there are at least \$7,000,000,000 of funds that have to be seized or frozen under present conditions. This measure gives authority to that agency, whether it be the Alien Property Custodian or otherwise, not only to freeze these assets, but to seize them and dispose of them and liquidate them—something that has been contested in the powers of the Alien Property Custodian heretofore. So I will say to the Senator from Michigan that the bill is broader along that line. Outside of that, I know of no further extension of power than President Wilson had.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. VAN NUYS. Yes.

Mr. TAFT. There was always a good deal of scandal and danger of scandal in connection with the office of the Alien Property Custodian, particularly because when a man came in and claimed property back there perhaps was nobody on the other side. I wonder if any such danger is guarded against in this particular measure, or whether that is something to be dealt with after the war is over.

Mr. VAN NUYS. I think that is largely a matter of administration rather than of legislation. I may be mistaken about that, but I think so.

Mr. TAFT. If the time ever comes when there is an alien property custodian with power to give property back to anybody or pay him for it, it seems to me some better provision should be made than was made after the World War.

Mr. VAN NUYS. I will say to the Senator from Ohio that I think that is largely an administrative matter, and that the power here is ample to put in operation such administrative processes as will accomplish those results.

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3. House Debate of December 16, 1941 (Excerpts)

87 Cong. Rec. 9858-9859, 9861-9867

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Mr. SUMNERS of Texas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 6233), to expedite the prosecution of the war effort.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H.R. 6233, with Mr. Davis of Tennessee in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. Sumners] is recognized for 1 hour, and the gentleman from Kansas is entitled to recognition for 1 hour.

Mr. SUMNERS of Texas. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I hardly know what additional statement would be helpful to the Committee in the determination of what we ought to do with reference to this bill.

As the gentleman from Michigan stated, it is a rather involved bill in a sense, but from the standpoint of what seems to be in the minds of the members of the committee it is a very simple bill. The bill reenacts the Overman Act, eliminating section 3, with such modifications as I believe nobody considers material.

Mr. CASE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. CASE of South Dakota. I notice that in Title III there is section 303, which provides for the establishment of authority for censorship for communications between this country and other countries. I am wondering if the original Overman Act did not carry such a provision, or if it did, what are the changes between this proposal and the previous act?

Mr. SUMNERS of Texas. The Overman Act did carry a provision with regard to censorship. No; I believe it was in the Trading With the Enemy Act.

Mr. KEFAUVER. I think the censorship part is in the Trading With the Enemy Act and not the Overman Act.

Mr. SUMNERS of Texas. That is correct. It is the Trading With the Enemy Act and not the Overman Act. This bill attempts to bring into one legislative enactment what is regarded to be those provisions of the Overman Act and Trading With the Enemy Act which it is required to legislate relative to now.

Mr. CASE of South Dakota. Then the provisions with regard to the censorship of communications does not differ materially with what it

was in previous law, whether it is the Overman Act or the Trading With the Enemy Act?

Mr. SUMNERS of Texas. I think that would be a correct statement.

Mr. CELLER. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. CELLER. Would it not be well to state that there is no domestic censorship involved in this legislation at all?

Mr. SUMNERS of Texas. Yes. I think the gentleman understands that.

Mr. CASE of South Dakota. Yes; I understood that.

Mr. SUMNERS of Texas. But I think for all practical purposes it is a correct statement to say that there is no substantial difference.

I do not know that there is anything further to be said about it.

Mr. KEAN. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. KEAN. I notice on page 5 that you have included securities, which were not included in the old Trading With the Enemy Act. That makes provision that during any period of national emergency declared by the President for all time he may prohibit the hoarding of securities. What does that mean?

Mr. SUMNERS of Texas. To what language does the gentleman refer?

Mr. KEAN. I refer to page 5.

Mr. SUMNERS of Texas. Has the gentleman made an examination of the provisions of existing law, appearing in the appendix of the report?

Mr. KEAN. I looked at the changes in existing law on page 4 of the report, and it included in existing law the hoarding of gold and silver bullion or currency, but the word "securities" is something new.

Mr. SUMNERS of Texas. This possibility is an expansion to incorporate securities.

Mr. KEAN. I am just wondering what the hoarding of securities is.

Mr. SUMNERS of Texas. I do not know.

Mr. KEAN. It seems to me that under the language of this section the administration could say to anybody that he had too many securities.

Mr. ROBSION of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. ROBSION of Kentucky. Under the provisions of the Trading With the Enemy Act and the alien property custodian features under the old law, they could just take over property, securities, plants, and so forth, and hold them; but under the provision we are now considering the Government cannot only take them over and hold them but can use them as well.

Mr. KEAN. I do not believe this refers to foreign securities only, but might be construed to refer to securities held by anybody in the United States.

Mr. SUMNERS of Texas. I do not believe so. This is simply a section dealing with alien enemies.

Mr. KEAN. If it deals only with alien enemies I think it is perfectly all right.

Mr. SUMNERS of Texas. I believe there is no doubt about that.

Mr. KEAN. That is all right, certainly.

Mr. JENKINS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. JENKINS of Ohio. The gentleman may have covered the point I am about to ask him for; I was not here when he started. Has the gentleman covered the main differences between this bill and the powers granted to President Wilson in the first World War?

Mr. SUMNERS of Texas. I made the general statement that I believed for all practical purposes we may say there is no substantial difference. Some modifications have been made that were deemed necessary. Guided by experience certain modifications have been made, but I believe I can state generally and that the members of the committee will generally agree, that there is no substantial difference between the provisions of this bill and the similar grants of power in the Overman Act and the Trading With the Enemy Act.

Mr. JENKINS of Ohio. One further question, if the gentleman please.

Mr. SUMNERS of Texas. Certainly.

Mr. JENKINS of Ohio. I have the most profound respect for the gentleman and his committee but have wondered whether there was any controversy at all over this bill. The reason I am asking these questions is so that if I am asked about the bill I will know something about it, and want to say that the great Judiciary Committee of the House considered it and unanimously agreed on its report.

Mr. SUMNERS of Texas. The Committee on the Judiciary did examine the bill. We recognize that it was a technical matter and pretty difficult for us to know all the details. The committee was largely persuaded by the discovered facts, the recognized facts, that there is no substantial difference insofar as the committee could discover between the powers we propose to grant to this President and the powers which President Wilson had. That is about as much as I can say.

* * * * *

Mr. LEA. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. LEA. I have noticed with interest that the bill includes title III, an amendment to the Trading With the Enemy Act. This is a subject matter which is within the jurisdiction of the Committee on Interstate and Foreign Commerce. I recognize that this is no time to quibble over the question of committee jurisdiction in view of the national situation, but title III has no direct relationship to the other sections of the bill. It would seem therefor to be a case where apparently our committee's jurisdiction has been invaded. I hope it is not the purpose of the gentleman's committee to attempt permanently to take this jurisdiction away from the Interstate and Foreign Commerce Committee which originally reported the bill to the House.

Mr. SUMNERS of Texas. To whatever degree this particular bill trespasses upon the jurisdiction of the great Committee on Interstate and Foreign Commerce, I am sure the Committee on the Judiciary will not attempt to hold this as a precedent.

* * * * *

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. HANCOCK. I yield to the gentleman from Minnesota.

Mr. O'HARA. I call the gentleman's attention to subdivisions (A) and (B) of section 301 of title III. One of my colleagues has called my attention to some of the language in these sections. There is no question

that it is the intention of this bill to regulate and control the property and securities of foreign countries and nationals thereof, but the language there is confusing. I think we should clear up some of that confusion.

For example, on line 16 on page 5, this and the following language might cause confusion about whether or not it means both foreigners and citizens of this country.

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield 5 additional minutes to the gentleman from New York.

Mr. HANCOCK. I believe the gentleman will find the limitation quite clear. If the gentleman will look at line 15, he will find that this whole section applies to property in which any foreign country or a national thereof has any interest. It deals with alien property.

Mr. O'HARA. Yes; but it then reads—

by any person, or with respect to any property, subject to the jurisdiction of the United States.

Of course, if it were not in the United States we would not have jurisdiction of it. I believe there is some confusion in the language. There is no question about the intention of the committee that this is to deal only with foreign property. That is the point to which I call the gentleman's attention.

Mr. GWYNNE. Mr. Chairman, will the gentleman yield?

Mr. HANCOCK. I yield to the gentleman from Iowa.

Mr. GWYNNE. Does not the gentleman think that the entire bill covers nothing but aliens and alien property? There is no question about that, is there?

Mr. O'HARA. I still say you have to be careful of this language.

Mr. HANCOCK. It is perfectly clear that it is intended by section 301 to deal only with property, bullion, gold and silver coins, foreign exchange, evidences of indebtedness, securities, and all kinds of real and personal property belonging to aliens.

Mr. VORYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HANCOCK. I yield to the gentleman from Ohio.

Mr. VORYS of Ohio. Referring to paragraph (A) of section 301, found on page 5 of the bill we have, will the gentleman point out how that is limited to foreign property in any way?

Mr. HANCOCK. That is the language of the present law, I may say to the gentleman.

Mr. VORYS of Ohio. It is not quite the language of the present law. In any case, we are reenacting it here under a heading, "Trading with the enemy." The language before me simply permits the President during any period of national emergency, not necessarily war, to investigate, regulate, or prohibit importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency, or securities.

Mr. HANCOCK. (A) has to do with the investigation, regulation, and control of various forms of securities, money, and bullion. (B) has to do with the investigation, regulation, and so on, of other forms of property. The limitation is this, and I quote from lines 14 and 15 on page 11:

Any property in which any foreign government or a national thereof has any interest.

This limitation applies to both (a) and (b), as I see it.

Mr. VORYS of Ohio. Where does the gentleman read those words?

Mr. HANCOCK. I shall have to get the new bill. Most of us have studied the old bill. Lines 14 and 15, page 11.

Mr. KEFAUVER. Mr. Chairman, will the gentleman yield?

Mr. HANCOCK. I yield to the gentleman from Tennessee.

Mr. KEFAUVER. I believe the gentleman is probably mistaken about subsection (a) of section 301 applying only to nationals of a foreign country. Apparently the purpose of subsection (a)—and I think it is absolutely necessary—is to prohibit our own citizens from sending money or currency into other countries which might be our enemies, or to prevent them from hoarding securities or money that might be needed by this country. So, I think that provision in subsection (a) does apply to our own nationals, but I think it is absolutely necessary that the power should be given to the President in wartime.

Mr. HANCOCK. The gentleman, I think, is partially correct, so far as Americans are concerned. The law which we passed in 1933 prohibited the hoarding at least, of gold bullion. Other types of hoarding should be taken care of in a different bill. This one is intended to apply to alien property.

Mr. KEFAUVER. I think substantially the only difference between this provision and what the law is, is that one says "securities" on page 5, whereas the present law probably defines "securities" as evidences of indebtedness.

Mr. VORYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HANCOCK. I yield to the gentleman.

Mr. VORYS of Ohio. Would the gentleman explain what the preventing of hoarding of securities means and what that has to do with trading with the enemy beyond the fact that something is in the present law and, of course, the hoarding of securities is not in the present law? [Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield to the gentleman 2 more minutes.

Mr. HANCOCK. Let me go along for a moment. There is another very important change in section 301 from the present Trading With the Enemy Act. Under our former law I think we still have power to seize enemy alien property and under our present law of export control we have considerable additional power over alien property, but this goes much further and gives the agents appointed by the Government the power to seize any property, any and all alien property, whether belonging to friend or enemy, and to put it into use. This is a power that has never been enjoyed before by any specific provision and it is important. It gives us the right to utilize the property we take over. The bill covers considerably more ground in this respect than the old act. I assume the purpose is this: Quite frequently there will be property bound for some neutral country which it is expected will eventually reach an enemy, and in that event the Custodian of Alien Property is authorized under this bill to seize that property and to utilize it for our own purposes. This is a power that was not granted in 1917, when a similar bill was passed.

The acquittance provision at the bottom of page 6 is in the present law:

Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise

directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same.

You will find it in sec. 7(e) of the Trading With the Enemy Act.

There is nothing new or strange or startling about this, although a good many people have asked me about it. It simply means that if operating under a regulation or order, you turn over some property which belongs to another person to the Alien Property Custodian, that person has no cause of action against you, but his remedy must be sought against the Alien Property Custodian.

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield to the gentleman 2 additional minutes.

Mr. HANCOCK. Section 302 is a very common sort of clause, a sort of saving clause, that is put into many bills of this kind. I assume the real purpose of it is to legalize certain seizures, contracts, and censorships that have already been made in anticipation of the passage of this bill. The committee narrowed the scope of the section as far as we could by adding the rather clumsy language at the end of the section.

Section 303 is exactly the same as section 3(d) of the Trading With the Enemy Act of 1917, with the exception that a penalty is added at the end of the section, and that same penalty can be found in section 16 of the old act for similar violations.

We believe that the passage of this bill will make it possible for the Executive to act promptly in Government reorganization and in the distribution of contracts geographically and to small subcontractors and to small business. It will permit the Government to seize and utilize alien property and will establish the right of censorship over mail and communications between this country and abroad. These powers will terminate when the war is over, and they will help win the war. They are necessary for the successful prosecution of it. Other drastic steps will be taken, but the American people are reconciled to them and will not hesitate to make any sacrifice to save what we hold most dear. At last our Nation is angry and determined and united.

Mr. SUMNERS of Texas. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I take this time to call the attention of the members of the Committee to this language which seems to be confusing to some degree. When you examine the bill you find that (A) and (B) do not constitute separate sentences and the language contained in (A) and (B) is connected up with this language, reading now beginning at line 13, to get the connection:

power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest.

This is limiting, and I think definitely fixing, language, and for the purpose of the record, as chairman of the Committee on the Judiciary, I make this statement, and I speak for the committee—I know I have the privilege to speak for the committee—that it was the intent of the committee and the understanding of the committee that what preceded in sections (A) and (B), on page 5, title III, Trading with the Enemy Act, are controlled by the language which I have just read, and I think that would remove any question.

Mr. VORVY of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. VORYS of Ohio. Then the chairman of the committee says that there was no intention to set up under (A) a system of control on strictly domestic property, but it was the intention of the committee to have the controls refer, both in (A) and (G), to transactions involving property in which any foreign country or a national thereof has an interest?

Mr. SUMNERS of Texas. Absolutely. I think most of the members of the Committee on the Judiciary are present on the floor.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. GUYER. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. Gwynne].

* * * * *

[Mr. Gwynne]. We will now come to title III, about which there seems to be more or less confusion. You will all remember that in the last war we passed the Trading With the Enemy Act. I think the first law was passed in October 1917. Thereafter from time to time we amended the law, and passed new laws, and thereafter from time to time we repealed parts of it, and parts of it have been held by the courts to be no longer in operation. I confess that it is difficult to say just how much of that law is now in effect. Back in 1933 and in 1940 we amended the law, we amended section 5(b) of the original law, and we passed that law at a time when there was a great deal of difficulty in respect to banking, and the matter of foreign exchange. In this bill the committee has amended the first sentence of section 5(b) of that act, and I think it confers on the President the following powers. Of course it is not self-executing and nothing happens until the President exercises the powers conferred upon him under the law. I think he may exercise powers as follows: First, he may regulate or prohibit transactions in foreign exchange, and the importation or the exportation of certain articles, and so forth.

Apparently there is some confusion as to whether that does or does not cover transactions other than those involving aliens and alien property. It is my understanding, as suggested by the chairman of the committee, that our committee had no thought other than to regulate alien property, and if clarification is necessary, perhaps that will be supplied at the proper place and at the proper time.

The second authority is this: To regulate and prohibit the transfer or use of property of any foreign nation or of any foreign national in the United States.

Third, the President is given authority to vest the ownership of such property in any person designated by the President. For example, I presume later on we will carry out the purposes of this statute by creating an Alien Property Custodian.

Fourth—and this is the principal difference between this law and the one we had during the last war—the President may hold and use—that is the new part—or sell such property for the benefit of the United States.

Fifth he may require the keeping of records by all persons so that the purposes of the law may be carried out.

Mr. KEFAUVER. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE. I yield.

Mr. KEFAUVER. Does not the gentleman agree that under the present law as amended in 1940 it applies to citizens of the United States and that subsection (a) of the bill on pages 4 and 5 is just a reenactment of the present law, substituting the word "securities" for "evidences of indebtedness"?

Mr. GWYNNE. Of course, the gentleman knows what happened there. That long, involved first sentence of section 5(b) was revamped and the construction changed, and I am inclined to think the gentleman may be right about it. In any event, I do think that should be clarified some time.

Mr. KEFAUVER. If the gentleman will read section 5(b) of the present law he will find that the first part of it refers to exporting, melting, or earmarking of gold, silver coin or bullion or currency, and "any transfer." Then the second part of it refers to the interest of a foreign national in the securities. Under the first part, before the word "and," is the authority the President used to seize the gold during the depression and to freeze it.

Mr. GWYNNE. That is correct. That is my understanding. I might say in answer to that question I do not know how far we should go along that particular line, but we should make up our minds and write language which would clearly express it.

Mr. KEFAUVER. In any event, this does not go any further than the present law?

Mr. GWYNNE. That is correct. There is no doubt of that. That is exactly the present law and the confusion that we now find is in the present law.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE. I yield.

Mr. O'HARA. There may be some inference by the question asked by the gentleman from Tennessee [Mr. Kefauver] that this was to apply to other than property of nationals of foreign nations. Will the gentleman clear that up?

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. KEFAUVER. Mr. Chairman, will the gentleman yield to me?

Mr. GWYNNE. I yield.

Mr. KEFAUVER. In my statement I did not mean to leave any inference. I meant to say directly that subsection (a) does apply to American nationals and always has. Subsection (a) is the law today, with the word "securities" added.

Mr. O'HARA. You mean with reference to the hoarding?

Mr. KEFAUVER. It does.

Mr. O'HARA. Do you mean that section (a) applies entirely to all American citizens?

Mr. KEFAUVER. It applies to any person, whether an American citizen or a foreign national, subject to the jurisdiction of the United States, who may hoard or melt or earmark any silver coin or bullion, currency or securities. That is the law today under section 5(b) as amended by the act of 1940, except that instead of using the word "securities" in the old law the old law says "evidence of indebtedness," or "evidence of ownership of property."

Mr. O'HARA. Will the gentleman agree with me that section (b) of title III certainly is intended to apply to foreign nationals and foreign governments?

Mr. KEFAUVER. Yes; I agree with the gentleman. Section (b) does apply to property in which some foreign national has an interest, and section (a) applies to anyone under the jurisdiction of the United States.

Mr. O'HARA. I think that is true.

Mr. GWYNNE. May I ask the gentleman from Tennessee, does not the gentleman think there is necessity for rearranging that sentence, so that the desire of the Congress is clearly expressed as to whether it should or should not from now on cover the nationals of our own country as well as nationals of other nations?

Mr. KEFAUVER. If you will read the present section 5(b) on page 4 of the report, which is the old act as amended by the act of March 9, 1933, and May 7, 1940, I do not see how there can be any question in the mind of anybody but that the first part applies to anybody in the jurisdiction of the United States and the second part applies to foreign interests or the interest of foreign governments. I think it is entirely clear.

Mr. STEFAN. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE. I yield.

Mr. STEFAN. When your committee discussed section (a) in the matter of gold or silver coin or bullion, did your committee take into consideration other metals, such as platinum? It has been called to my attention that a considerable amount of platinum bars have changed hands on the New York Metal Exchange for the purpose of some safety for the individual. Was this question brought up in the gentleman's committee in the discussion of this bill?

Mr. GWYNNE. The committee gave that no consideration. The intention of the committee was to make a beginning of regulation of aliens and alien property in this country.

Mr. STEFAN. This, or course, is applicable to American nationals as well, is it not?

Mr. GWYNNE. The one provision with regard to foreign exchange is probably applicable.

Mr. STEFAN. Why not take into consideration platinum when you take into consideration gold and silver bullion?

Mr. GWYNNE. If that is property that belongs to some foreign nation or national it is, of course, subject to our jurisdiction.

Mr. STEFAN. Certainly, but the gentleman knows and will agree. I am sure, that considerable wealth has been brought into this country in the way of metal and so on by foreigners. It would stand to reason we should take into consideration platinum the same as gold and silver bullion.

Mr. GWYNNE. Let me say to the gentleman that this provision covers all property belonging to aliens that is within our jurisdiction.

Mr. STEFAN. It would not be necessary then specifically to mention platinum.

Mr. GWYNNE. No.

Mr. STEFAN. It would cover platinum?

Mr. GWYNNE. Yes, indeed.

Mr. SPRINGER. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE. I yield.

Mr. SPRINGER. As I understand, the gentleman has stated that subsection (b) of section 301 applies only to nationals of a foreign country who have interest in property in this country.

Mr. GWYNNE. Yes; I think that is clear.

Mr. SPRINGER. And is it the gentleman's thought that subsection (a) which immediately precedes on page 5 applies to our own citizens as well as to nationals of other countries?

Mr. GWYNNE. I am inclined to think that is correct. I think, however, it should be clarified.

[Here the gravel fell.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. Celler].

Mr. CELLER. Mr. Chairman, under this bill we give to the President the power to take what is needed to meet the emergency. We round out and supplement whatever powers he now has. He has a herculean task to perform and it needs herculean powers. These powers are given him in this bill. I desire briefly to comment upon section 303 found on page 8 which concerns international communications.

I wish to emphasize that there is no attempt in section 303 to establish any control or censorship over domestic internal communications by radio, telegraph, press, or by word of mouth. This is an attempt only to control international communications.

Now let me give you something of the condition of confusion that exists today with reference to communications. There are many agencies of Government engaged at the present time in some form of defense information service. There are 10 such agencies. The defense branches include among others the new Office of Facts and Figures, the Office of the Coordinator of Information, the Office of the Coordinator of Inter-American Affairs, the War, Navy, Treasury, and State Departments, the Office of Emergency Management, the Selective Service System, and the Office of Government Reports. Members of the press, radio commentators, and others seeking information have a great deal of difficulty in getting the true state of facts from these 10 different agencies. At times they give out conflicting reports; and this bill by section 303, so far as international communications are concerned, seeks to remedy this defect and would empower the President to set up some sort of bureau to control or some other measure of control over this situation. For example, at the present time broadcasting is not controlled in any sense of the word. Many of the United States stations can be heard in South America. Most of the naval censorship is now exercised on news dispatches going through by cable and wireless. It is obviously not a complete system when press dispatches going for instance to Buenos Aires are being carefully scanned while broadcasts of activities and news bulletins are absolutely free. With the passage of this bill we shall go a great ways in changing and remedying that situation.

I feel that with reference to domestic communications we should pattern after what occurred during the last World War when there was set up between the radio, the press, and the Government a sort of voluntary restraint, a sort of voluntary censorship. George Creel was empowered by President Wilson to establish a mild sort of censorship, for

want of a better term, whereby the news commentators, editors, and publishers agreed to submit to the appropriate agencies of Government or to George Creel and his colleagues, information they had received. They got clearance in that way from the centralized bureau. I believe the President could very readily set up some sort of bureau of that character upon which there would be representation from the press, representation from radio, representation from the public; and, as Walter Lippmann in a very interesting article in the New York Herald Tribune pointed out, we could do this without the loss of any of our rights and without risking the loss of public criticism which is so essential to good government. If the press and the radio are called upon openly to assist in setting up this sort of voluntary censorship and are continuously represented in the administration of the censorship it will work satisfactorily, for responsible newspapermen and radio commentators are quite able to recognize and enforce the distinction between information which is off the record and information which can be published.

It is far better to have this sort of voluntary control over press and radio setup by some sort of Executive order rather than have compulsory censorship by legislative fiat. The English system is one of voluntary action and agreement between press, radio, and government. It works admirably well in England. It does not preclude criticism of the government, because they know in England wisely and prudently that it is only an aroused public opinion which can for example get rid of an inefficient, worthless officer of the government or officer of the armed forces. Criticism is freely permitted. The truth can be told. The only restraint is that the report or communication cannot be such as to give aid and comfort to the enemy. I think we could well pattern after the English system. Indeed, I hope that the Executive authority not only under the power that we give him in this bill but under his present powers will set up some sort of a bureau of the character that President Wilson set up during the last war. There were some abuses of power, but they can be avoided. We can readily profit by our experience during that last war.

MR. GUYER. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. Springer].

* * * * *

[MR. SPRINGER]. The other provision of the bill, and I refer to title III, with respect to "trading with the enemy," has practically the identical provisions, as I understand it, that the bill contained which was in force during the last World War. There has been added by the Judiciary Committee an extra precaution under section 401 of this measure. This precaution relates to the time such proposed law would terminate. This extraordinary power must end when the war is over. No one knows who will be President when this war ends, and provision is made for the termination of this proposed law by concurrent resolution of both Houses of the Congress. This provision assures the right of the representatives of the people to recapture this great and extraordinary power, and to again vest the power in the people when this war ends.

MR. Chairman, I dislike to vest great power in the President of the United States. Vast power has been delegated to the President—greater than has been delegated to any other President of this great Nation.

But we are now involved in war, and it becomes necessary to delegate great power to the President. In the face of our national-defense requirements and the necessity of this hour of peril, I expect to support this measure and grant the power to the President which he requests—but with this power goes the responsibility involved. The President owes a sacred duty to the people of this Nation. He must not fail to discharge that duty to our people and to our Nation in these sad days.

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. Kefauver].

Mr. KEFAUVER. Mr. Chairman, this is the first legislation of this type we have had up for consideration since the declaration of war, and I think it is very commendable and speaks well of the unity we have in the Nation and in the Congress in the fact that everybody has joined together in trying to accomplish the result that we all seek to accomplish. I want to largely direct my remarks to title III, the trading with the enemy feature of this bill.

It was explained to us by representatives of the Treasury that it was absolutely necessary for the present act—5(b)—to be reenacted in order to enable the Treasury to carry out its policy of freezing certain credits and of handling certain financial interests during the war. The explanation made to us, and I think it is carried out in this bill, is that the only change the Treasury wanted in 5(b) of the Trading With the Enemy Act was to give the executive department power not only to passively freeze credits and to negatively handle the operation of some manufacturing plants by a system of licenses or controls that they have to work under at the present time, but also to give the President the power to actively put into operation those interests or those securities or plants that might be taken over and be seized under authority of 5(b) of the present act.

If you will look at page 4 of the report, you will find the present section 5, as amended by the acts of March 9, 1933, and May 7, 1940. It is quite apparent upon reading it that the present law gives the President the power to investigate, regulate, or prohibit any transactions in foreign exchange, transfers of credit, or payments between, by, through, or to any banking institution, and exporting, hoarding, melting, or earmarking of gold or silver coin or bullion or currency. The only thing that has been added there is the word "securities." I think that makes the law a little stronger. I understand the provisions of the first part of this act came into it by amendment in March 1933. The purpose was to authorize the President to restrict credit transactions and prevent hoarding during the bank emergency period. I think subsection (a) applies to citizens of this country as well as foreign nationals. The debate in March 1933 indicates that this is true, and I think the language is clear. When this section was amended in May 1940 there does not appear to have been any debate in the House. However, the question was fully debated in the Senate. The report of the argument will be found in the Record, beginning at page 5168. Subsection (b) is the same as the old law, except that it gives the President the right to use and to operate anything that may be taken over in which a foreign national or government has an interest.

It seems to me, in view of the action that has already been taken by the Treasury Department and by the President in freezing credits and

preventing the hoarding of certain money or gold, this would not be the time to change the existing law in respect to subsection (a). I think it is well that we extend it as it is enlarged in subsection (b).

Of course, this bill does not cover everything that will have to be done. There are some parts of the Trading With the Enemy Act that are still in force, and there are some parts of it that are not in force. I think it is going to take a very careful examination of all these laws to see what other parts it may be necessary again to make vital during the continuation of the war, but that will take several weeks. For the present, the officials in the executive departments tell us that this is what they can as a minimum get by with until they have an opportunity to study some of the other provisions that may later be necessary.

As to the section that deals with contracts, we consider trying to write into this section a provision protecting the Government from fraud and extortion by so-called contract brokers. However, this subject should be covered by comprehensive legislation and I hope it will be appropriately taken care of at an early date.

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. Williams].

Mr. WILLIAMS. Mr. Chairman, I am taking this time for the purpose of trying to clarify what the present law is with reference to the financial and property transactions as set out in subsections (A) and (B) of this bill.

It so happens that that legislation originated in and was reported by the Committee on Banking and Currency, I believe, in May 1940, and was passed by unanimous consent. It amended the original act that was passed, as we all know, in 1917.

I believe I can say without any question that the present act applies only to those transactions and those properties in which foreign governments or subdivisions thereof or their nationals have an interest. There seems to have been some confusion about that matter here. There is no doubt that was the intention of the legislation at the time it was enacted, and there was a very definite reason for it. It followed immediately the invasion of Norway, Belgium, and Holland by Germany, and it was enacted for the very purpose of protecting their nationals and their property in this country from transactions and transfers forced upon them by the Germans at that time. That was the purpose of it. There was no intention and there is no intention at all now that it should be applied to any transaction or any property in which an American citizen has an interest.

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky [Mr. Robson].

Mr. ROBSON of Kentucky. Mr. Chairman, this is a tremendously important bill. It grants to the President most extraordinary powers. There can hardly be granted greater powers. Section 1, at the beginning of the bill, gives the reasons for the granting of these extraordinary powers:

That for the national security and defense, for the successful prosecution of the war, for the support and maintenance of the Army and Navy, for the better utilization of resources and industries, and for the more effective exercise and more efficient administration by the President of his powers as Commander in Chief of the Army and Navy.

These powers rest upon those declarations. We have declared war against Japan, Italy, and Germany, and the executive branch insists these powers are essential now to enable us to prosecute this war successfully.

* * * * *

The trading with the enemy provision in title 3 is necessary now. In the last World War under the Trading With the Enemy Act this Government took over \$500,000,000 worth of property and held it until after the war, and then adjudications were made by the Alien Property Custodian.

Up to this time our Government has already taken over \$7,000,000,000 worth of money, credits, and other property. There is no sense in this Government holding this \$7,000,000,000 worth of property inactive, allowing it to rust, plants to remain idle, and bear the expense of its maintenance. This bill gives the Government the right, not only to take it over, but to convert it, to sell it, or to use it, and that is one important amendment to the Trading With the Enemy Act, and it ought to be adopted.

Your committee was not idle and did not fail to scrutinize, this important measure when it came before us from the Executive branch. There are several important amendments that were put into this bill by your Committee on the Judiciary.

I wish to call your attention to page 7. The bill that was brought to us was very broad, indeed. It provided to make active and vitalize all acts, actions, regulations, rules, orders, and proclamations that had been made theretofore, from October 6, 1917, when the Trading With the Enemy Act was first passed. Amendments were adopted by our committee; but your committee, realizing that we must protect the Government for its actions during recent months when it took over this \$7,000,000,000 of assets and property of foreign nations, made the necessary provisions in this bill.

Another thing that your committee insisted be written into the bill is our right to recapture these extraordinary powers given to the President. And how was that done?

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield to the gentleman 2 additional minutes.

Mr. ROBSON of Kentucky. In section 401 it is provided that this act shall remain in force during the continuance of the present war and for 6 months after the termination of the war. This is too uncertain. We might quit fighting as we did in the World War on November 11, 1918, but there was no real declaration of peace for more than 2 years. Now if we should quit fighting and the Executive was not willing to declare that the war was over, perhaps we could not fix the 6 months because we could not tell whether the war was over or not; perhaps no treaty of peace had been made or accepted—we never did ratify the Treaty of Versailles—so we wrote into this bill that both Houses of Congress, one concurring with the other, could at any time recapture these powers. Congress might not be able to repeal this act. We might pass the law, and it would go to the President and he would veto it. Then we would have to have a two-thirds majority, but under the provision put in this bill we can recapture

or stop these powers simply by a majority vote of both Houses. It is insisted these extraordinary powers are necessary. We will put them in the hands of the President. We have given him the money; we have given him the power; Congress will give him the men and the ships and the planes, and then the American people will hold him and those who are associated with him responsible if they do not give America victory.

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. O'Hara].

Mr. O'HARA. Mr. Chairman, in the consideration of this bill today I am reminded of the fact that last evening over our national radio systems it was celebrated with dramatic effect the one hundred and fiftieth anniversary of the birth of the Bill of Rights. It occurred to me that in discussing this bill there are, perhaps, powers granted herein affecting the Bill of Rights greater than in any single act of this Congress. Yet we all recognize that under war conditions or under extraordinary conditions, certain powers must be vested in the President, as in the control of the property, moneys, and securities of foreign countries and foreign nationals with whom we are at war. The matter which troubled me about this bill was the fact that when the bill was originally presented to the Committee on the Judiciary, the committee was very much dissatisfied with the drafting of the bill, and as a result I think a much improved bill has been brought out of your committee and one which plainly sets up what is intended to be the law by which all of us are to be guided.

I was particularly grateful to the gentleman from Missouri [Mr. Williams] for his observations as to the effect of sections A and B of title III. I certainly feel that that language should be applicable only to the properties of a foreign national or a foreign country, and I am particularly grateful to him for his observation that there was no question that the Trading With the Enemy Act, as passed in 1940, was intended solely to apply to foreign nationals.

* * * * *

Mr. WALTER. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. WALTER: Page 6, line 2, after the word "President", strike out the word "may" and insert the word "shall."

Mr. WALTER. Mr. Chairman, under the bill as written the President may require whoever is appointed Alien Property Custodian—and I assume that such a person will be appointed—to keep a record of the transactions that take place during the tenure of his office. It seems to me that, conferring the tremendous powers conferred under this section on some individual, we should compel that person to keep a full and complete record of all the transactions that take place, and I submit that this is a very reasonable thing to expect. I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The amendment was agreed to.

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4. Senate Debate of December 17, 1941 (Excerpts)

87 Cong. Rec. 9893-9895

* * * * *

REENACTMENT OF OVERMAN AND TRADING WITH THE ENEMY ACTS

Mr. REYNOLDS. Mr. President, I move that the Senate take up for consideration Senate bill 2126.

Mr. VAN NUYS. Mr. President—

Mr. REYNOLDS. I yield to the Senator from Indiana.

Mr. VAN NUYS. I ask unanimous consent that the Senate proceed to the consideration of House bill 6233, to expedite the prosecution of the war effort.

The PRESIDING OFFICER. Is there objection?

Mr. TAFT. Mr. President, I inquire what bill is it?

Mr. VAN NUYS. Yesterday the House passed House bill 6233 which is identical with Senate bill 2129 passed by the Senate, except for one simple provision, making it mandatory instead of optional to file certain reports, which I will explain later on.

Mr. TAFT. I have no objection.

Mr. McNARY. Mr. President, a parliamentary inquiry. What is the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is the request of the Senator from Indiana [Mr. Van Nuys] that the Senate proceed to the consideration of House bill 6233. Is there objection to that request?

There being no objection, the Senate proceeded to consider the bill (H.R. 6233) to expedite the prosecution of the war effort, which was read twice by its title.

Mr. VAN NUYS. Mr. President, yesterday the House passed a bill identical with the one which we had under consideration and passed yesterday, Senate bill 2129. The House made one change. It changed the word "may" on page 6, line 14, to "shall." The bill at that point refers to reports required of the Alien Property Custodian, or whatever agency the President may designate for the custody of alien property. The change makes such reports mandatory instead of optional. It strengthens the bill along the line proposed in some of the committee amendments yesterday. I was in consultation today with Chairman Sumners, of the House Committee, and I ascertained that his committee will agree to all the amendments adopted by the Senate yesterday. If the Senate will permit that additional change in the bill, it will make it unnecessary for the bill to go to conference, and it can be enacted at once.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. VAN NUYS. I yield.

Mr. BARKLEY. From the parliamentary standpoint, the House bill having been passed and messaged to the Senate, and the Senate bill having been passed and messaged to the House, is it the purpose of the

Senator from Indiana to take up the House bill and move to strike out all after the enacting clause and include the text of the Senate bill as passed yesterday, with the additional amendment which the House has put into its bill?

Mr. VAN NUYS. That is my purpose.

* * * * *

Mr. VAN NUYS. Mr. President, I now move to strike out all after the enacting clause of the House bill, and insert the provisions of Senate bill 2129 as passed yesterday, with one change; namely, on page 6, line 14, of the Senate engrossed bill, strike out the word "may" and insert the word "shall", so as to read:

And the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision—

And so forth.

* * * * *

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute, offered by the Senator from Indiana.

The amendment in the nature of a substitute, was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 6233) was read the third time, and passed.

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5. House Debate of December 17, 1941 (Excerpts)

87 Cong. Rec. 9946-9947

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TO EXPEDITE THE WAR EFFORT

Mr. SUMNERS of Texas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 6233, to expedite the prosecution of the war effort, with a Senate amendment thereto, and concur in the Senate amendment.

Mr. Speaker, with reference to H.R. 6233 and especially with regard to paragraph (1) of section 301 of title III, Trading With the Enemy, in view of the discussion on the floor of the House during the consideration of H.R. 6233, on yesterday, I would like to make it clear that there was no intention on my part and so far as I know there was no intention on the part of any member of the Committee on the Judiciary to propose or support any legislation reducing the powers of the President under existing law, nor to reduce in any degree existing law relative to domestic transactions.

The SPEAKER. The Clerk will report the Senate amendment.

The Clerk read as follows:

* * * * *

The SPEAKER. Is there objection?

Mr. MICHENER. Mr. Speaker, I have looked over the amendment, and the committee is unanimously in favor of it.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The question is on concurring in the Senate amendment.

The Senate amendment was concurred in and a motion to reconsider the vote by which the Senate amendment was agreed to was laid on the table.

The bill S. 2129 was laid on the table.

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6. House Report (Excerpt)

Expediting the Prosecution of the War Effort, House Report No. 1507, 77th Congress, 1st Session, to Accompany H.R. 6233, December 15, 1941

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III

Title III of the bill deals with the Trading With the Enemy Act, which originally became law on October 6, 1917, during the last war. Some sections of that act are still in effect. Some sections have terminated, and there is doubt as to the effectiveness of other sections.

Title III contains three provisions:

(1) Section 5(b) of the Trading With the Enemy Act has been continued down to the present time. The existing system of foreign property control (commonly known as freezing control) is based on that subdivision as last amended on May 7, 1940. That subdivision of section 5 as it is now in effect, however, does not give the broad powers to take, administer, control, use, liquidate, etc., such foreign-owned property that would be given by section 301 of the bill.

At present the Government exercises supervision over transactions in foreign property, either by prohibiting such transactions or by permitting them on condition and under license. It is, therefore, a system which can prevent transactions in foreign property prejudicial to the best interests of the United States, but it is not a system which can affirmatively compel the use and application of foreign property in those interests.

Section 301 remedies that situation by adding to the existing freezing control, in substance, the powers contained in the Trading With the Enemy Act with respect to alien property, extending those powers, and adding a flexibility of control which experience under the original act and the recent experience under freezing control have demonstrated to be advisable. The provisions of section 301 would permit the establishment of a complete system of alien property treatment. It vests flexible powers in the President, operating through such agency or agencies as he might choose, to deal with the problems that surround alien property or its ownership or control in the manner deemed most effective in each particular case. In this respect the bill avoids the rigidity and inflexibility which characterized the alien property custodian law enacted during the last war. The necessity for flexibility in legislation on this subject is accentuated by the vastness of the alien property problem confronting the Government today. At the peak of his activity, the Alien Property Custodian of the last war administered property valued at something over \$500,000,000. Today there is over \$7,000,000,000 worth of property already subject to the existing control.

This provision of the bill to a considerable extent follows the pattern of existing law and is a logical extension of the present foreign prop-

erty control system, which has been operating very satisfactorily for almost 2 years. The extension could be put into immediate operation with a minimum amount of trouble or dislocation of legitimate activities.

(2) Section 302 of title III approves and ratifies action taken prior to the enactment of this legislation, under the Trading With the Enemy Act, as amended, which would have been authorized if the provisions of this proposed legislation had been in effect at the time of the taking of the action in question. This ratification provision is similar in principle to those heretofore adapted by Congress, applicable to action taken under section 5(b) of the Trading With the Enemy Act. (See sec. 2 of the joint resolution of May 7, 1940, Public Res. No. 69, 76th Cong.; and sec. 1 of the act of March 9, 1933, 48 Stat. 1.)

(3) Section 303 is identical with the provisions of section 3(d) of the Trading With the Enemy Act passed in 1917, except that it also contains provisions identical with section 16, the penalty provision of such act.

Section 3(d) of the Trading With the Enemy Act authorized President Wilson, whenever he deemed that the public safety demanded it during the last World War, to cause to be censored, under such rules and regulations as he might from time to time establish, communications by mail, cable, radio, or any other means of transmission between the United States and any foreign country. Section 303 of the present bill deals only with censorship of international communications and not with domestic censorship.

The authority given by this provision is the minimum necessary for an effective control over foreign communications. It seems likely that the President as Commander in Chief of the Army and Navy already has, during time of war, power to censor international communications. However, in a matter of such importance there should be no question about the extent of such power. It is especially important that the President's power extend not only to the direct means of communication but also to control over communications which may be carried by means of vessels, automobiles, or other means of transportation. Section 303 will make it absolutely clear that the President may censor all forms of foreign communication direct or indirect. It will further permit him, as a matter of administration, to set up an organization and definite rules under which the control is to be carried out.

IV

Title IV provides a time limit for titles I and II of the bill. It provides that these titles shall expire 6 months after the treaty of peace or at such earlier time as the Congress by concurrent resolution, or the President may designate. The provisions in title III are limited by their own terms and thus do not require a special termination date.

CHANGES IN EXISTING LAW

The changes in section 5(b) of the Trading With the Enemy Act, as amended, proposed by this legislation are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter

is printed in italics, existing law in which no change is proposed is shown in roman.

SEC. 5. * * *

(b) **During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by or to banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, and any transfer, withdrawal or exportation of, or dealing in, any evidences of indebtedness or evidences of ownership of property in which any foreign state or a national or political subdivision thereof, as defined by the President, has any interest, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person to furnish under oath, complete information relative to any transaction referred to in this subdivision or to any property in which any such foreign state, national or political subdivision has any interest, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed.]**

(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest, by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President may, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) *As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof, including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas: Provided, however, That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision.*

Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

7. Senate Report (Excerpt)

Expediting the Prosecution of the War Effort, Senate Report No. 911, 77th Congress, 1st Session, to Accompany S. 2129, December 15, 1941

* * * * *

III

Title III of the bill has three parts:

(1) Section 301 amends and extends section 5(b) of the Trading with the Enemy Act which originally became law on October 6, 1917, during the last World War. The existing system of foreign property control is based on section 5(b), as last amended on May 7, 1940. This amendment will conform this statute to the exigencies of this war.

The existing foreign property control regulations (popularly known as "freezing control") have permitted the Government to prevent and regulate transactions relating to foreign property which are prejudicial to the interests of the United States. While existing law permits the Government to prevent transactions, it is now necessary for the Government to be able to affirmatively compel the use and application of foreign property in a manner consistent with the interests of the United States.

Section 301 would remedy this situation. It gives the President flexible powers, operating through such agency as he might choose, to deal comprehensively with the many problems that surround alien property or its ownership or control in the manner most effective in each particular case. In this respect, the bill avoids the rigidity and inflexibility which characterized the Alien Property Custodian law enacted during the last war. The necessity for flexibility in legislation on this subject is accentuated by the vastness of the alien-property problem confronting the Government today. At the peak of his activity, the Alien Property Custodian of the last war administered property valued at something over \$500,000,000. Today there is over \$7,000,000,000 worth of property already subject to the existing control.

This provision of the bill to a considerable extent follows the pattern of existing law and is a logical extension of the present foreign property control system, which has been operating very satisfactorily for almost 2 years. The extension could be put into immediate operation with a minimum amount of trouble or dislocation of legitimate activities.

It is essential that the Government have this power, a power exercised by every other wartime government and exercised by this Government during the last war.

(2) Section 302 of the bill, with appropriate limitations, confirms action already taken under the Trading With the Enemy Act. It is similar in principle to provisions in previous legislation on this subject

(sec. 2 of the joint resolution of May 7, 1940, Public Res. No. 69, 76th Cong.; and sec. 1 of the act of March 9, 1933, 48 Stat. 1).

(3) Section 303 is identical with the provisions of section 3(d) of the Trading With the Enemy Act passed in 1917, except that it also contains provisions identical with section 16, the penalty provision of such act.

Section 3(d) of the Trading With the Enemy Act authorized President Wilson, whenever he deemed that the public safety demanded it during the last World War, to cause to be censored, under such rules and regulations as he might from time to time establish, communications by mail, cable, radio, or any other means of transmission between the United States and any foreign country. Section 303 of the present bill deals only with censorship of international communications and not with domestic censorship.

Section 303 will make it absolutely clear that the President may censor all forms of foreign communication direct or indirect. It will further permit him as a matter of administration, to set up an organization and definite rules under which the control is to be carried out.

IV

Title IV provides a time limit for titles I and II of the bill. It provides that these titles shall expire 6 months after the termination of the war or at such earlier time as the Congress or the President may determine. The provisions in title III are limited by their own terms and thus do not require a special termination date.

* * * * *

H. Trading With the Enemy Act, as Amended

1. Current Codification at 12 U.S.C.A. 95

§ 95a. Regulation of transactions in foreign exchange of gold and silver; property transfers; vested interests, enforcement and penalties.

(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States, and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this section either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this section, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and fur-

ther measures not inconsistent herewith for the enforcement of this section.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this section or any rule, regulation, instruction or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this section, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this section the term "United States" means the United States and any place subject to the jurisdiction thereof: *Provided, however*, That the foregoing shall not be construed as a limitation upon the power of the President, which is conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this section, for any or all of the terms used in this section. Whoever willfully violates any of the provisions of this section or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment or both. As used in this section the term "person" means an individual, partnership, association, or corporation. (Oct. 6, 1917, ch. 106, § 5 (b), 40 Stat. 415; Sept. 24, 1918, ch. 176, § 5, 40 Stat. 966; Mar. 9, 1933, ch. 1, title I, § 2, 48 Stat. 1; May 7, 1940, ch. 185, § 1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, § 301, 55 Stat. 839; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 69 Stat. 1352.)

CODIFICATION

Section 5 (b) of act Oct. 6, 1917, is part of the Trading with the Enemy Act and is also set out as section 5 (b) of Title 50, Appendix, War and National Defense.

Words "including the Philippine Islands, and the several courts of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this section in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas" following "to the jurisdiction thereof" in subsec. (3) were omitted upon the authority of 1946 Proc. No. 2695, which granted the Philippine Islands independence, and which was issued pursuant to section 1394 of Title 22. Proc. No. 2695 is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

Provisions relating to the hoarding or melting of gold or silver coin or bullion or currency and to the regulation of transactions in bonds or certificates of indebtedness were added by act Sept. 24, 1918.

AMENDMENTS

1941—Act Dec. 18, 1941, broadened the powers of the President to take, administer, control, use and liquidate foreign-owned property and added a flexibility of control which enabled the President and the agencies designated by him to cope with the problems surrounding alien property, its ownership or control, on the basis of the particular facts in each case.

1940—Act May 7, 1940, included dealings in evidences of indebtedness or ownership of property in which foreign states, nationals or political subdivisions thereof have an interest.

1933—Act Mar. 9, 1933, amended section generally by, among other things, extending the President's power to any time of war or national emergency, by permitting regulations to be issued by any agency designated by the President, by providing for the furnishing under oath of complete information relative to transactions under this section and by placing sanctions on violations to the extent of a \$10,000 fine or ten years imprisonment.

DELEGATION OF POWERS

Delegation of President's powers under this section to the Secretary of the Treasury and the Alien Property Custodian; and transfer of Alien Property Custodian's powers to the Attorney General, see Ex. Ord. Nos. 9095 and 9788, set out in notes to section 6 of Title 50, Appendix, War and National Defense.

All powers conferred upon the President by this section were delegated to the Secretary of the Treasury by Memorandum of the President dated Feb. 12, 1942, 7 F.R. 1409.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of Title 50, Appendix, War and National Defense.

CROSS REFERENCES

Felony, offense punishable by imprisonment for a term exceeding one year as, see section 1 of Title 18, Crimes and Criminal Procedure.

Jurisdiction of courts of Philippine Islands terminated, see section 1382 of Title 22, Foreign Relations and Intercourse.

Provisions governing checks and warrants withheld pursuant to Ex. Ord. No. 8389, adding sections 9—12 to Ex. Ord. No. 6560, see section 126 of Title 31, Money and Finance.

Right to amend, separability of provisions, and ratification of acts done under this section, see sections 212 and 213 of this title.

EX. ORD. NO. 6260, HOARDING, EXPORT, AND EARMARKING OF GOLD COIN, BULLION, OR CURRENCY; TRANSACTIONS IN FOREIGN EXCHANGE

Ex. Ord. No. 6260, Aug. 28, 1933, as amended by Ex. Ord. No. 6556, Jan. 12, 1934; Ex. Ord. No. 6560, Jan. 15, 1934; Ex. Ord. No. 10896, Nov. 29, 1960, 25 F.R. 12281; Ex. Ord. No. 10905, Jan. 14, 1961, 26 F.R. 321; Ex. Ord. No. 11037, July 20, 1962, 27 F.R. 6967, provided:

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917 [this section], as amended by section 2 of the act of March 9, 1933, entitled "An act to provide relief in the existing national emergency in banking and for other purposes," I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following provisions for the investigation and regulation of the hoarding, earmarking, and export of gold coin, gold bullion, and gold certificates by any person within the United States or any place subject to the jurisdiction thereof, and for the investigation and regulation of transactions in foreign exchange and transfers of credit and the export or withdrawal of currency from the United States or any place subject to the jurisdiction thereof by any person within the United States or any place subject to the jurisdiction thereof.

SECTION 2: DEFINITIONS

As used in this order, the term "person" means an individual, partnership, association or corporation; the term "United States" means the United States and any place subject to the jurisdiction thereof; and the term "person subject to the jurisdiction of the United States" means; (a) any individual who is a citizen of the United States; (b) any individual, wherever located, who is a resident of, or domiciled in, the United States; (c) any partnership, association, corporation or other organization which is organized or doing business under the laws of the United States or of any state or territory thereof or the District of Columbia; and (d) any partnership, association, corporation or other organization wherever organized or doing business which is owned or controlled by persons specified in (a); (b), or (c).

SECTION 3. [REVOKED]

[Revoked by Ex. Ord. No. 10896, promulgated Nov. 29, 1960.]

SECTION 4. ACQUISITION OF GOLD COIN AND GOLD BULLION

No person other than a Federal Reserve bank shall after the date of this order acquire in the United States any gold coin, gold bullion, or gold certificates except under license therefor issued pursuant to this Executive order: *Provided*; That member banks of the Federal Reserve System may accept delivery of such coin, bullion, and certificates for surrender promptly to a Federal Reserve bank: *And provided further*, That persons requiring gold for use in the industry, profession, or art in which they are regularly engaged may replenish their stocks of gold up to an aggregate amount of \$100, by acquisitions of gold bullion held under licenses issued under section 5(b), without necessity of obtaining a license for such acquisitions and provided further that collectors of rare and unusual coin may acquire from one another and hold without necessity of obtaining a license therefor gold coin having a recognized special value to collectors of rare and unusual coin (but not including quarter eagles, otherwise known as \$2.50 pieces, unless held, together with rare and unusual coin, as part of a collection for historical, scientific, or numismatic purposes, containing not more than four quarter eagles of the same date and design and struck by the same mint).

The Secretary of the Treasury, subject to such further regulations as he may prescribe, shall issue licenses authorizing the acquisition of—

(a) Gold coin or gold bullion which the Secretary is satisfied is required for a necessary and lawful transaction for which currency other than gold certificates cannot be used, by an applicant who establishes that since March 9, 1933 he has surrendered an equal amount of gold coin, gold bullion, or gold certificates to a banking institution in the continental United States or to the Treasurer of the United States;

(b) Gold coin or gold bullion which the Secretary is satisfied is required by an applicant who holds a license to export such an amount of gold coin or gold bullion issued under subdivision (c) or (d) of section 6 hereof, and

(c) Gold bullion which the Secretary, or such agency as he may designate, is satisfied is required for legitimate and customary use in industry, profession, or art by an applicant regularly engaged in such industry, profession, or art or in the business of furnishing gold therefor.

Licenses issued pursuant to this section shall authorize the holder to acquire gold coin and gold bullion only from the sources specified by the Secretary of the Treasury in regulations issued hereunder.

SECTION 5. HOLDING OF GOLD COINS, GOLD BULLION, AND GOLD CERTIFICATES

After 30 days from the date of this order no person shall hold in his possession or retain any interest, legal or equitable, in any gold coin, gold bullion, or gold certificates situated in the United States and owned by any person subject to the jurisdiction of the United States, except under license therefor issued pursuant to this Executive order.

The Secretary of the Treasury, subject to such further regulations as he may prescribe, shall issue licenses authorizing the holding of—

(a) Gold coin, gold bullion, and gold certificates which the Secretary is satisfied are required by the person owning the same for necessary and lawful transactions for which currency, other than gold certificates, cannot be used;

(b) Gold bullion which the Secretary, or such agency as he may designate, is satisfied is required for legitimate and customary use in industry, profession, or art by a person regularly engaged in such industry, profession, or art or in the business of furnishing gold therefor;

(c) Gold coin and gold bullion earmarked or held in trust since before April 20, 1933, for a recognized foreign government or foreign central bank or the Bank for International Settlements; and

(d) Gold coin and gold bullion imported for reexport or held pending action upon application for export licenses.

SECTION 6. EARMARKING AND EXPORT OF GOLD COIN AND GOLD BULLION

After the date of this order no person shall earmark or export any gold coin, gold bullion, or gold certificates from the United States, except under license

therefor issued by the Secretary of the Treasury pursuant to the provisions of this order.

The Secretary of the Treasury, in his discretion and subject to such regulations as he may prescribe, may issue licenses authorizing—

(a) The export of gold coin or gold bullion earmarked or held in trust since before April 20, 1933, for a recognized foreign government, foreign central bank, or the Bank for International Settlements.

(b) The export of gold, (i) imported for reexport, (ii) refined from gold-bearing materials imported by the applicant under an agreement to export gold, or (iii) in bullion containing not more than 5 ounces of gold per ton;

(c) The export of gold coin or gold bullion to the extent actually required for the fulfillment of a contract entered into by the applicant prior to April 20, 1933; but not in excess of the amount of the gold coin, gold bullion, and gold certificates surrendered by the applicant on or after March 9, 1933, to a banking institution in the continental United States or to the Treasurer of the United States; and

(d) The earmarking for foreign account and/or export of gold coin or gold bullion, with the approval of the President, for transactions which the Secretary of the Treasury may deem necessary to promote the public interest;

(e) Through any agency that he may designate, the export of gold coin having a recognized special value to collectors of rare and unusual coin (but not including quarter eagles, otherwise known as \$2.50 pieces, unless held, together with rare and unusual coin, as part of a collection for historical, scientific, or numismatic purposes, containing not more than four quarter eagles of the same date and design and struck by the same mint).

SECTION 7. [REVOKED]

[Revoked by Ex. Ord. No. 10896, promulgated Nov. 29, 1960.]

SECTION 8. [REVOKED]

[Revoked by Ex. Ord. No. 6560, Jan. 15, 1934.]

SECTION 9. RULES AND REGULATIONS; LICENSES AND PERMITS

The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this order. Such regulations may provide for the detention in the United States of any gold coin, gold bullion, or gold certificates sought to be transported beyond the limits of the continental United States, pending an investigation to determine if such coin, bullion, or certificates are held or are to be acquired in violation of the provisions of this Executive order. Licenses and permits granted in accordance with the provisions of this order and the regulations prescribed hereunder, may be issued through such officers or agencies as the Secretary may designate.

SECTION 10. VIOLATIONS

Whoever willfully violates any provision of this Executive order or of any license, order, rule, or regulation issued or prescribed hereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

SECTION 11. REVOCATION OF OTHER ORDERS; MODIFICATIONS AND REVOCATION OF THIS ORDER OR LICENSES

The Executive orders of April 5, 1933, forbidding the hoarding of gold coin, gold bullion, and gold certificates, and April 20, 1933, relating to foreign exchange and the earmarking and export of gold coin or bullion or currency, respectively, are hereby revoked. The revocation of such prior Executive orders shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal cause prior to said revocation, but all liabilities under said Executive orders shall continue and may be enforced in the same manner as if said revocation had not been made. This Executive order and any regulations or licenses issued hereunder may be modified or revoked at any time.

SECTION 12. POSSESSION OF GOLD COIN, CERTIFICATES OR BULLION

Except under license issued therefor pursuant to the provisions of this order, no person subject to the jurisdiction of the United States shall, after the effective date of this section, acquire, hold in his possession, earmark, or retain any interest, legal or equitable, in any gold coin, gold certificates, or gold bullion, situated outside of the United States or any securities issued by any person holding, as a substantial part of his assets, gold as a store of value or as, or in lieu of, money and not for a specific and customary industrial, professional or artistic use. The Secretary of the Treasury, subject to such other regulations as he may prescribe, is authorized to issue licenses permitting the acquisition and holding by persons subject to the jurisdiction of the United States of gold bullion situated outside of the United States which the Secretary or such agency as he may designate is satisfied is required for legitimate and customary use in the industry, profession, or art in which such person is regularly engaged.

[Ex. Ord. No. 6260, set out above, was amended by Ex. Ord. 6359, Oct. 25, 1933, set out under section 248 of this title, to permit, subject to regulations of the Secretary of the Treasury, the export of articles fabricated from gold.]

EX. ORD. NO. 6560. TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY

Ex. Ord. No. 6560, Jan. 15, 1934, as amended by Ex. Ord. No. 8389, April 10, 1940, 6 p.m. E.S.T., 5 F.R. 1400; Ex. Ord. No. 8405, May 10, 1940, 7:55 a.m. E.S.T., 5 F.R. 1677; Ex. Ord. No. 8493, July 25, 1940, 5 F.R. 2667, provided:

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917 (40 Stat. L., 411) [this section] as amended by section 2 of the act of March 9, 1933, entitled "An Act to provide relief in the existing national emergency in banking and for other purposes", I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency continues to exist, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following regulations for the investigation, regulation, and prohibition of transactions in foreign exchange, transfers of credit between or payments by banking institutions as herein defined, and export of currency or silver coin, by any person within the United States or any place subject to the jurisdiction thereof.

SECTION 1. PROHIBITION AGAINST UNLICENSED TRANSACTIONS

Every transaction in foreign exchange, transfer of credit between any banking institution within the United States and any banking institution outside of the United States (including any principal, agent, home office, branch, or correspondent outside of the United States of a banking institution within the United States), and the export or withdrawal from the United States of any currency or silver coin which is legal tender in the United States, by any person within the United States, is hereby prohibited, except under license therefor issued pursuant to this Executive order: *Provided, however,* That, except as prohibited under regulations prescribed by the Secretary of the Treasury, foreign exchange transactions and transfers of credit may be carried out without a license for (a) normal commercial or business requirements, (b) reasonable traveling and other personal requirements, or (c) the fulfillment of legally enforceable obligations incurred prior to March 9, 1933.

SECTION 2. POSSESSIONS OF THE UNITED STATES

Except as prohibited in regulations prescribed by the Secretary of the Treasury, transfers of credit between banking institutions in the continental United States and banking institutions in other places subject to the jurisdiction of the United States (including principals, agents, home offices, branches, or correspondents in such other places, of banking institutions within the continental United States), may be carried out without a license.

SECTION 3. LICENSES

The Secretary of the Treasury, acting directly or through any agencies that he may designate, and the Federal Reserve banks acting in accordance with such rules and regulations as the Secretary of the Treasury may from time to time prescribe, are hereby designated as agencies for the granting of licenses as hereinafter provided. Licenses may be granted authorizing such transactions in for-

oreign exchange, transfers of credit, and exports of currency (other than gold certificates) or silver coin in such specific cases or classes of cases as the Secretary of the Treasury may determine in regulations prescribed hereunder and rulings made pursuant thereto.

SECTION 4. REPORTS

The Federal Reserve banks shall keep themselves currently informed as to foreign exchange transactions entered into or consummated, and transfers of credit made between banking institutions outside of the continental United States and banking institutions in their districts, and report to the Secretary of the Treasury all transactions in foreign exchange and all such transfers of credit not permitted under sections 1 or 2 hereof which are effected or attempted in their districts without a license.

SECTION 5. REGULATIONS

The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of this order, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by the Federal Reserve banks and by such other agencies as the Secretary of the Treasury may designate; and the Secretary of the Treasury may require any person engaged in any transaction, transfer, export, or withdrawal referred to in this Executive order to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person either before or after such transaction, transfer, export, or withdrawal is completed.

SECTION 6. PENALTIES

Whoever willfully violates or knowingly participates in the violation of any provision of this Executive order or of any license, order, rule, or regulation issued or prescribed hereunder, shall be subject to the penalties provided in section 5(b) of the act of October 6, 1917 [section 95a of this title], as amended by section 2 of the act of March 9, 1933.

SECTION 7. DEFINITIONS

As used in this Executive order the term "United States" means the United States and any place subject to the jurisdiction thereof; the term "continental United States" means the States of the United States, the District of Columbia, and the Territory of Alaska; the term "person" means an individual, partnership, association, or corporation; and the term "banking institution" includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing and selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent; and, for the purposes of this order, each home office, branch, principal, agent, or correspondent of any person so engaged shall be regarded as a separate "banking institution."

SECTION 8. REVOCATION

Section 8 of the Executive order of August 28, 1933 [Ex. Ord. No. 6260, also set out in note under this section], relating to the hoarding, export, and earmarking of gold coin, bullion, or currency and to transactions in foreign exchange, is hereby revoked.

This Executive order and any rules, regulations, or licenses prescribed or issued hereunder may be modified or revoked at any time.

[Sections 9-14 were added to this Order by Ex. Ord. No. 8389, set out under this section. Section 6 of said Ex. Ord. No. 8389, as amended by Ex. Ord. No. 8785 provides that Ex. Ord. No. 8389 shall no longer be deemed an amendment to or part of Ex. Ord. No. 6560.

Ex. Ord. No. 6560 was modified insofar as inconsistent with Ex. Ord. No. 8389 set out under this section, by section 6 of said Ex. Ord. No. 8389.]

EX. ORD. NO. 8389, REGULATING TRANSACTIONS IN FOREIGN EXCHANGE AND FOREIGN-OWNED PROPERTY, PROVIDING FOR THE REPORTING OF ALL FOREIGN-OWNED PROPERTY

Ex. Ord. No. 8389, Apr. 10, 1940, 5 F.R. 1400, as amended by Ex. Ord. No. 8405, May 10, 1940, 5 F.R. 1677, Ex. Ord. No. 8446, June 17, 1940, 5 F.R. 2270; Ex. Ord.

No. 8484, July 15, 1940, 5 F.R. 2586; Ex. Ord. No. 8493, July 25, 1940, 5 F.R. 2667; Ex. Ord. No. 8565, Oct. 10, 1940, 5 F.R. 4062; Ex. Ord. No. 8701, Mar. 4, 1941, 6 F.R. 1285; Ex. Ord. No. 8711, Mar. 13, 1941, 6 F.R. 1443; Ex. Ord. No. 8721, Mar. 24, 1941, 6 F.R. 1622; Ex. Ord. No. 8746, Apr. 28, 1941, 6 F.R. 2187; Ex. Ord. No. 8785, June 14, 1941, 6 F.R. 2897; Ex. Ord. No. 8832, July 26, 1941, 6 F.R. 3715; Ex. Ord. No. 8963, Dec. 9, 1941, 6 F.R. 6348; Ex. Ord. No. 8998, Dec. 26, 1941, 6 F.R. 6787, provided:

SECTION 1. CERTAIN FOREIGN BANKING TRANSACTIONS PROHIBITED

All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise, if (i) such transactions are by, or on behalf of, or pursuant to the direction of any foreign country designated in this Order, or any national thereof, or (ii) such transactions involve property in which any foreign country designated in this Order, or any national thereof, has at any time on or since the effective date of this Order had any interest of any nature whatsoever, direct or indirect:

A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside the United States, of a banking institution within the United States);

B. All payments by or to any banking institution within the United States;

C. All transactions in foreign exchange by any person within the United States;

D. The capital or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

SECTION 2. DEALINGS IN FOREIGN SECURITIES; REGULATIONS

A. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise;

(1) The acquisition, disposition or transfer of, or other dealing in or with respect to any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country, designated in this Order or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign country, or where the attendant circumstances disclose or indicate that such stamp or seal may, at any time, have been stamped, imprinted, affixed or attached thereto; and

(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States.

B. The Secretary of the Treasury may investigate, regulate, or prohibit under such regulations, rulings, or instructions as he may prescribe, by means of licenses or otherwise, the sending, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States.

SECTION 3. FOREIGN COUNTRIES AFFECTED; EFFECTIVE DATE OF PROHIBITIONS

The term "foreign country designated in this Order" means a foreign country included in the following schedule, and the term "effective date of this Order" means with respect to any such foreign country, or any national thereof, the date specified in the following schedule:

(a) April 8, 1940: Norway and Denmark;

(b) May 10, 1940: The Netherlands, Belgium, and Luxembourg;

- (c) June 17, 1940: France (including Monaco);
- (d) July 10, 1940: Latvia, Estonia and Lithuania;
- (e) October 9, 1940: Rumania;
- (f) March 4, 1941: Bulgaria;
- (g) March 13, 1941: Hungary;
- (h) March 24, 1941: Yugoslavia;
- (i) April 28, 1941: Greece; and
- (j) June 14, 1941: Albania, Andorra, Austria, Czechoslovakia, Danzig, Finland, Germany, Italy, Liechtenstein, Poland, Portugal, San Marino, Spain, Sweden, Switzerland, and Union of Soviet Socialist Republics;
- (k) June 14, 1941: China and Japan;
- (l) June 14, 1941: Thailand;
- (m) June 14, 1941: Hong Kong.

The "effective date of this Order" with respect to any foreign country not designated in this Order shall be deemed to be June 14, 1941.

SECTION 4. RECORDS OF FOREIGN BANKING AND SECURITY TRANSACTIONS; INVESTIGATIONS

A. The Secretary of the Treasury and/or the Attorney General may require by means of regulations, rulings, instructions, or otherwise, any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise from time to time and at any time or times, complete information relative to, any transaction referred to in section 5(b) of the Act of October 6, 1917 (40 Stat. 415) [section 95a of this title], as amended, or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect, including the production of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed; and the Secretary of the Treasury and/or the Attorney General may, through any agency, investigate any such transaction or act, or any violation of the provisions of this Order.

B. Every person engaging in any of the transactions referred to in sections 1 and 2 of this Order shall keep a full record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least one year after the date of such transaction.

SECTION 5. DEFINITIONS

A. As used in the first paragraph of section 1 of this Order "transactions (which) involve property in which any foreign country designated in this Order, or any national thereof, has * * * any interest of any nature whatsoever, direct or indirect," shall include but not by way of limitation (i) any payment or transfer to any such foreign country or national thereof, (ii) any export or withdrawal from the United States to such foreign country, and (iii) any transfer of credit, or payment of an obligation, expressed in terms of the currency of such foreign country.

B. The term "United States" means the United States and any place subject to the jurisdiction thereof, and the term "continental United States" means the States of the United States, the District of Columbia, and the Territory of Alaska: *Provided, however*, That for the purposes of this Order the term "United States" shall not be deemed to include any territory included within the term "foreign country" as defined in paragraph D of this section.

C. The term "person" means an individual, partnership, association, corporation, or other organization.

D. The term "foreign country" shall include, but not by way of limitation, (i) The state and the government thereof on the effective date of this Order as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof.

(ii) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise *de jure* or *de facto* sovereignty over the area which on such effective date constituted such foreign country, and

(iii) Any territory which on or since the effective date of this Order is controlled or occupied by the military, naval or police forces or other authority of such foreign country;

(iv) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing. Hong Kong shall be deemed to be a foreign country within the meaning of this subdivision.

E. The term "national" shall include.

(i) Any person who has been domiciled in, or a subject, citizen or resident of a foreign country at any time on or since the effective date of this Order.

(ii) Any partnership, association, corporation or other organization, organized under the laws of, or which on or since the effective date of this Order had or has had its principal place of business in such foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, such foreign country and/or one or more nationals thereof as herein defined.

(iii) Any person to the extent that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any national of such foreign country, and

(iv) Any other person who there is reasonable cause to believe is a "national" as herein defined.

In any case in which by virtue of the foregoing definition a person is a national of more than one foreign country, such person shall be deemed to be a national of each such foreign country. In any case in which the combined interests of two or more foreign countries designated in this Order and/or nationals thereof are sufficient in the aggregate to constitute, within the meaning of the foregoing, control of 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association corporation or other organization shall be deemed to be a national of each of such foreign countries. The Secretary of the Treasury shall have full power to determine that any person is or shall be deemed to be a "national" within the meaning of this definition, and the foreign country of which such person is or shall be deemed to be a national. Without limitation of the foregoing, the term "national" shall also include any other person who is determined by the Secretary of the Treasury to be, or to have been, since such effective date, acting or purporting to act directly or indirectly for the benefit or under the direction of a foreign country designated in this Order or national thereof, as herein defined.

F. The term "banking institution" as used in this Order shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchases and sellers thereof, as principal or agents, or any person holding credits for others as a direct or incidental part of his business, or brokers, and each principal, agent home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution".

G. The term "this Order", as used herein, shall mean Executive Order No. 8389 of April 10, 1940, as amended.

SECTION 6. CONSTRUCTION WITH EX. ORD. NO. 6560; SAVING CLAUSE

Executive Order No. 8389 of April 10, 1940, as amended, shall no longer be deemed to be an amendment to or a part of Executive Order No. 6560 of January 15, 1934. Executive Order No. 6560 of January 15, 1934, and the Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of this Order, and except as so modified, continue in full force and effect. Nothing herein shall be deemed to revoke any license, ruling, or instruction now in effect and issued pursuant to Executive Order No. 6560 of January 15, 1934, as amended, or pursuant to this Order provided, however, that all such licenses, rulings, or instructions shall be subject to the provisions hereof. Any amendment, modification or revocation by or pursuant to the provisions of this Order of any orders, regulations, rulings, instructions or licenses

shall not affect any act done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification or revocation, and all penalties, forfeitures and liabilities under any such orders, regulations, rulings, instructions or licenses shall continue and may be enforced as if such amendment, modification or revocation had not been made.

SECTION 7. REGULATIONS BY SECRETARY OF THE TREASURY

Without limitation as to any other powers or authority of the Secretary of the Treasury or the Attorney General under any other provision of this Order, the Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this Order and to provide therein or otherwise the conditions under which licenses may be granted by or through such officers or agencies as the Secretary of the Treasury may designate, and the decision of the Secretary with respect to the granting, denial or other disposition of an application or license shall be final.

SECTION 8. OFFENSES AND PENALTIES UNDER ACT OCT. 6, 1917

Section 5(b) of the Act of October 6, 1917, as amended, provides in part: " * * * Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agents of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both."

SECTION 9. AMENDMENTS OF ORDER AND REGULATIONS PRESCRIBED THEREUNDER

This Order and any regulations, rulings, licenses or instructions issued hereunder may be amended, modified or revoked at any time.

[Ex. Ord. No. 8389 and the regulations and general rulings issued thereunder by the Secretary of the Treasury were approved and confirmed by Res. May 7, 1940, ch. 185, § 2, 54 Stat. 179.]

[Ex. Ord. No. 9760, July 24, 1946, 11 F.R. 7999, 50 U.S.C. App., § 6 note, relating to diplomatic property of Germany and Japan in the United States, supercedes conflicting provisions of Ex. Ord. No. 8389, set out above.]

EX. ORDS. NOS. 8446, 8484, 8565, 8701, 8711, 8721, 8746

The application of Ex. Ord. No. 6560, §§ 9—14, to French property by Ex. Ord. No. 8446, 5 F.R. 2279; to Latvian, Estonian and Lithuanian property by Ex. Ord. No. 8484, 5 F.R. 2586; to Rumanian property by Ex. Ord. No. 8565, 5 F.R. 4062; to Bulgarian property by Ex. Ord. No. 8701, 6 F.R. 1285; to Hungarian property by Ex. Ord. No. 8711, 6 F.R. 1443; to Yugoslav property by Ex. Ord. No. 8721, 6 F.R. 1622; to Greek property by Ex. Ord. No. 8746, 6 F.R. 2187, was incorporated in the provisions of Ex. Ord. No. 8389 as amended by Ex. Ord. No. 8785, set out as a note under this section.

EX. ORD. NO. 9747. FUNCTIONS OF ALIEN PROPERTY CUSTODIAN AND TREASURY DEPARTMENT CONTINUED IN PHILIPPINES

Ex. Ord. No. 9747, July 8, 1946, 11 F.R. 7518, provided:

The terms and provisions of Executive Order 9095 of March 11, 1942, as amended [set out as a note under section 6 of Title 50, Appendix], and Executive Order No. 8389 of April 10, 1940, as amended [set out as a note under this section], shall continue in force in the Philippines after July 4, 1946, and all powers and authority delegated by the said Executive Orders to the Alien Property Custodian and to the Secretary of the Treasury, respectively, shall after July 4, 1946, continue to be exercised in the Philippines by the said officers, respectively, as therein provided.

EXECUTIVE ORDER NO. 10348

Ex. Ord. No. 10348, April 28, 1952, 17 F.R. 3769, which provided that Ex. Ord. No. 8389, April 10, 1940, 5 F.R. 1400, as amended, set out as a note under this section, and all delegations, designations, regulations, rulings, instructions, and licenses issued under such order should be continued in force according to their

terms for the duration of the period of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, set out as a note preceding section 1 of Title 50, Appendix, War and National Defense, was superseded by Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, set out as a note under section 6 of Title 50, Appendix.

EX. ORD. NO. 10896. GOLD COIN, BULLION, OR CURRENCY'S AMENDMENT OF EX. ORD. NO. 6260

Ex. Ord. No. 10896, Nov. 29, 1960, 25 F.R. 12281, provided:

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended, 12 U.S.C. 95a [this section], and in view of the continued existence of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950 [set out as a note preceding section 1 of Title 50, Appendix, War and National Defense,] I, DWIGHT D. EISENHOWER, President, of the United States of America, do hereby confirm Executive Order No. 6260 of August 28, 1933, as amended [set out as a note under this section], and do hereby further amend Executive Order No. 6260 as follows:

1. Section 3 is revoked.
2. The first paragraph of section 5 is amended by deleting the proviso at the end thereof, and by inserting a period in place of the colon after the phrase "this Executive Order" where it appears in such paragraph.
3. Section 7 is revoked.

This amendment of Executive Order No. 6260, as amended, shall not affect any act done, or any right accruing or accrued or any suit or proceeding had or commenced in any civil or criminal cause prior to the effective date of this amendment, and all penalties, forfeitures, and liabilities under Executive Order No. 6260, as heretofore amended, shall continue and may be enforced as if this amendment had not been made. All licenses, orders, rules or regulations heretofore issued under Executive Order No. 6260, as amended, and now in effect, including the Gold Regulations constituting Part 54 of Title 31 of the Code of Federal Regulations, are hereby approved, ratified, and confirmed and shall continue in full force and effect until amended, modified, or revoked by the Secretary of the Treasury.

This amendment shall become effective upon filing for publication with the Office of the Federal Register.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 11037. GOLD COIN, BULLION, OR CURRENCY; AMENDMENT OF EX. ORD. NO. 6260

Ex. Ord. No. 11037, July 20, 1962, 27 F.R. 6967, provided:

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917, as amended, 12 U.S.C. 95a [this section], and in view of the continued existence of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950 [set out as a note preceding section 1 of Title 50, Appendix, War and National Defense], I, John F. Kennedy, President of the United States of America, do hereby further amend Executive Order No. 6260, as amended [set out as a note under this section], as follows:

1. Section 12 is amended to read as follows:

"12. Except under license issued therefor pursuant to the provisions of this order, no person subject to the jurisdiction of the United States shall, after the effective date of this section, acquire, hold in his possession, earmark, or retain any interest, legal or equitable, in any gold coin, gold certificates, or gold bullion, situated outside of the United States or any securities issued by any person holding, as a substantial part of his assets, gold as a store of value or as, or in lieu of, money and not for a specific and customary industrial, professional or artistic use. The Secretary of the Treasury, subject to such other regulations as he may prescribe, is authorized to issue licenses permitting the acquisition and holding by persons subject to the jurisdiction of the United States of gold bullion situated outside of the United States which the Secretary or such agency as he may designate is satisfied is required for legitimate and customary use in the industry, profession, or art in which such person is regularly engaged."

2. Notwithstanding the provisions of Section 1 of this Order, the Secretary of the Treasury is authorized to issue licenses permitting, until January 1, 1963, the holding and disposition or importation of gold coins having a recognized special

value to collectors of rare and unusual coin situated outside of the United States which were acquired by persons subject to the jurisdiction of the United States prior to the effective date of this amendment and are owned by such persons on such date.

This amendment shall become effective upon filing for publication with the Office of the Federal Register.

JOHN F. KENNEDY.

EX. ORD. NO. 11387. GOVERNING CERTAIN CAPITAL TRANSFERS ABROAD

Ex. Ord. No. 11387, Jan. 1, 1968, 33 F.R. 47, provided:

By virtue of the authority vested in the President by section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a) [this section], and in view of the continued existence of the national emergency declared by Proclamation No. 2914 of December 16, 1950, and the importance of strengthening the balance of payments position of the United States during this national emergency, it is hereby ordered:

1. (a) Any person subject to the jurisdiction of the United States who, alone or together with one or more affiliated persons, owns or acquires as much as a 10% interest in the voting securities, capital or earnings of a foreign business venture is prohibited on or after the effective date of this Order, except as expressly authorized by the Secretary of Commerce, from engaging in any transaction involving a direct or indirect transfer of capital to or within any foreign country or to any national thereof outside the United States.

(b) The Secretary of Commerce is authorized to require, as he determines to be necessary or appropriate to strengthen the balance of payments position of the United States, that any person subject to the jurisdiction of the United States who, alone or together with one or more affiliated persons, owns or acquires as much as a 10% interest in the voting securities, capital or earnings of one or more foreign business ventures shall cause to be repatriated to the United States such part as the Secretary of Commerce may specify of (1) the earnings of such foreign business ventures which are attributable to such person's investments therein and (2) bank deposits and other short term financial assets which are held in foreign countries by or for the account of such person. Any person subject to the jurisdiction of the United States is required on or after the effective date of this Order, to comply with any such requirement of the Secretary of Commerce.

(c) The Secretary of Commerce shall exempt from the provisions of this section 1, to the extent delineated by the Board of Governors of the Federal Reserve System (hereinafter referred to as the Board), banks or financial institutions certified by the Board as being subject to the Federal Reserve Foreign Credit Restraint Programs, or to any program instituted by the Board under section 2 of this Order.

2. The Board is authorized in the event that it determines such action to be necessary or desirable to strengthen the balance of payments position of the United States.

(a) to investigate, regulate or prohibit any transaction by any bank or other financial institution subject to the jurisdiction of the United States involving a direct or indirect transfer of capital to or within any foreign country or to any national thereof outside the United States; and

(b) to require that any bank or financial institution subject to the jurisdiction of the United States shall cause to be repatriated to the United States such part as the Board may specify of the bank deposits and other short term financial assets which are held in foreign countries by or for the account of such bank or financial institution. Any bank or financial institution subject to the jurisdiction of the United States shall comply with any such requirement of the Board on and after its effective date.

3. The Secretary of Commerce and the Board are respectively authorized, under authority delegated to each of them under this Order or otherwise available to them, to carry out the provisions of this Order, and to prescribe such definitions for any terms used herein, to issue such rules and regulations, orders, rulings, licenses and instructions, and to take such other actions, as each of them determines to be necessary or appropriate to carry out the purposes of this Order and their respective responsibilities hereunder. The Secretary of Commerce and the Board may each redelegate to any agency, instrumentality or official of the

United States any authority under this Order and may, in administering this Order, utilize the services of any other agencies, Federal or State, which are available and appropriate.

4. The Secretary of State shall advise the Secretary of Commerce and the Board with respect to matters under this Order involving foreign policy. The Secretary of Commerce and the Board shall consult as necessary and appropriate with each other and with the Secretary of the Treasury.

5. The delegations of authority in this Order shall not affect the authority of any agency or official pursuant to any other delegation of presidential authority presently in effect or hereafter made, under section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a) [this section].

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51b-1, 95b, 212, 213 of this title.

§ 95b. Ratification of acts of President and Secretary of Treasury under section 95a.

The actions, regulations, rules, licenses, orders, and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by section 95a of this title, are approved and confirmed. (Mar. 9, 1933, ch. 1, title I, § 1, 48 Stat. 1.)

CROSS REFERENCES

Right to amend, separability of provisions, and ratification of acts done under this section, see sections 212 and 213 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51b-1, 212, 213 of this title.

2. Current Codification at 50 U.S.C.A. App. 1-44

TRADING WITH THE ENEMY ACT OF 1917

ACT OCT. 6, 1917, CH. 106, 40 STAT. 411

- Sec.
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 2. Definitions.
 3. Acts prohibited.
 4. Licenses to enemy or ally of enemy insurance or reinsurance companies; change of name; doing business in United States.
 5. Suspension of provisions relating to ally of enemy; regulation of transactions in foreign exchange of gold or silver, property transfers, vested interests, enforcement and penalties.
 6. Alien Property Custodian; general powers and duties.
 - 6a. Incurrence of expenses by Office of Alien Property Custodian.
 - 6b. Payment of expenses by the Attorney General.
 7. Lists of enemy or ally of enemy officers, directors or stockholders of corporations in United States; acts constituting trade with enemy prior to passage of Act; conveyance of property to custodian; voluntary payment to custodian by holder; acts under order, rule, or regulation.
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 9. Claims to property transferred to custodian; notice of claim; filing; return of property; suits to recover; sale of claimed property in time of war or during national emergency.
 10. Acts permitted; applications for patents, or registration of trade-marks or copyrights; payment of tax in relation thereto; licenses under enemy owned patent or copyright; statement by licensees; term and cancellation; suits against licenses; restraining infringements; powers of attorney; keeping secret inventions.
 11. Importations prohibited.
 12. Property transferred to Alien Property Custodian.
 13. Statements by masters of vessels and owners of cargoes before granting clearances.
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 16. Offenses; punishment; forfeitures of property.
 17. Rules by district courts; appeals.
 18. Jurisdiction of courts of Philippines and Canal Zone of offenses.
 19. Print, newspaper or publication in foreign languages.
 20. Fees of agents, attorneys, or representatives.
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 22. Fugitives from justice barred from recovery.
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 28. "Unallocated interest fund," defined.
 29. Waiver by Custodian of demand for property; acceptance of less amount; approval of Attorney General.
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Sec.

32. Return of property.
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TERMINATION OF WORLD WAR AND EMERGENCY

This act was expressly excepted from the operation and effect of Joint Res. Mar. 3, 1921, ch. 136, 41 Stat. 1359, declaring that certain Acts of Congress, joint resolutions, and proclamations should be construed as though the World War had ended and the then present or existing emergency expired.

CROSS REFERENCES

Confirmation of certain acts, etc., made under provisions of sections 4-6, 7-39 and 41-44 of this Appendix, see section 617 of this Appendix.

ACT REFERRED TO IN OTHER SECTIONS

This Act is referred to in title 22 sections 1382, 1384; title 28 section 2680.

§ 1. Designation of Act.

This Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] shall be known as the "Trading with the Enemy Act." (Oct. 6, 1917, ch. 106, § 1, 40 Stat. 411.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2 to 6, 7 to 39, 41 to 44, 1982 of this Appendix.

§ 2. Definitions.

The word "enemy," as used herein, shall be deemed to mean, for the purposes of such trading and of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term enemy."

The words "ally of enemy," as used herein, shall be deemed to mean—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation which is an ally of a nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of such ally nation, or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation which is an ally of a nation with which the United States is at war or any political or municipal subdivision of such ally nation, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class individuals, as may be natives, citizens, or subjects of any nation which is an ally of a nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "ally of enemy."

The word "person," as used herein, shall be deemed to mean an individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic.

The words "United States," as used herein, shall be deemed to mean all land and water, continental or insular, in any way within the jurisdiction of the United States or occupied by the military or naval forces thereof.

The words "the beginning of the war," as used herein, shall be deemed to mean midnight ending the day on which Congress has declared or shall declare war or the existence of a state of war.

The words "end of war," as used herein, shall be deemed to mean the date of proclamation of exchange of ratifications of the treaty of peace, unless the President shall, by proclamation, declare a prior date, in which case the date so proclaimed shall be deemed to be the "end of the war" within the meaning of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix].

The words "bank or banks," as used herein, shall be deemed to mean and include national banks, State banks, trust companies, or other banks or banking associations doing business under the laws of the United States, or of any State of the United States.

The words "to trade," as used herein, shall be deemed to mean—

(a) Pay, satisfy, compromise, or give security for the payment or satisfaction of any debt or obligation.

(b) Draw, accept, pay, present for acceptance or payment, or indorse any negotiable instrument or chose in action.

(c) Enter into, carry on, complete, or perform any contract, agreement, or obligation.

(d) Buy or sell, loan or extend credit, trade in, deal with, exchange, transmit, transfer, assign, or otherwise dispose of, or receive any form of property.

(e) To have any form of business or commercial communication or intercourse with (Oct. 6, 1917, ch. 106, § 2, 40 Stat. 411.)

WORLD WAR I PROCLAMATIONS ENUMERATING ENEMIES

The following Presidential Proclamations issued during World War I declared the partnerships and persons enumerated therein to be "enemies":

Proc. Feb. 5, 1918, 40 Stat. 1745.

Proc. May 31, 1918, 40 Stat. 1786.

Proc. Aug 10, 1918, 40 Stat. 1833.

Proc. Aug. 14, 1918, 40 Stat. 1837.

Proc. Nov. 29, 1918, 40 Stat. 1899.

CROSS REFERENCES

Alien enemies within United States, see section 21 of this title.

Beginning of war, see Const. Art. 1, § 8, cl. 11.

Commercial intercourse with the enemy, generally, see section 7 of this Appendix.

"Member of former ruling family" defined, see section 31 of this Appendix.

"Unallocated interest fund" defined, see section 28 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to sections 1, 3 to 6, 4 to 39 and 41 to 44 of this Appendix.

§ 3. Acts prohibited.

It shall be unlawful—

(a) For any person in the United States, except with the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] to trade, or attempt to trade either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

(b) For any person, except with the license of the President, to transport or attempt to transport into or from the United States, or for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place, any subject or citizen of an enemy or ally of enemy nation, with knowledge or reasonable cause to believe that the person transported or attempted to be transported is such subject or citizen.

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, or bring into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit out of the United States, any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy: *Provided, however,* That any person may send, take, or transmit out of the United States anything herein forbidden if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

(d) Whenever, during the present war, the President shall deem that the public safety demands it, he may cause to be censored under

such rules and regulations as he may from time to time establish, communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall be punished as provided in section sixteen of this Act [section 16 of this Appendix]. (Oct. 6, 1917, ch. 106, § 3, 40 Stat. 412.)

TRANSFER OF FUNCTIONS

Termination of Office of Alien Property Custodian and transfer of functions, etc. to Attorney General, see Ex. Ord. No. 9788 set out in note under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II see notes under section 6 of this Appendix.

PRESIDENTIAL POWERS TRANSFERRED

All powers conferred upon the President by subsec. (a) of this section were delegated to the Secretary of the Treasury by Memorandum of the President dated Feb. 12, 1942, 7 F.R. 1409.

Transfer of President's powers under subsec. (a) to Alien Property Custodian, see Ex. Ord. No. 9095 and Ex. Ord. No. 10348, set out as notes under section 6 of this Appendix.

CROSS REFERENCES

Carriage of matter out of mail on vessels, see section 1695 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 2, 4 to 6, 7 to 39 and 41 to 44 of this Appendix.

§ 4. Licenses to enemy or ally of enemy insurance or reinsurance companies; change of name; doing business in United States.

(a) Every enemy or ally of enemy insurance or reinsurance company, and every enemy or ally of enemy, doing business within the United States through an agency or branch office, or otherwise, may within thirty days after the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], apply to the President for a license to continue to do business; and, within thirty days after such application, the President may enter an order either granting or refusing to grant such license. The license, if granted, may be temporary or otherwise, and for such period of time, and may contain such provisions and conditions regulating the business, agencies, managers and trustees and the control and disposition of the funds of the company, or of such enemy or ally of enemy, as the President shall deem necessary for the safety of the United States; and any license granted hereunder may be revoked or regranted or renewed in such manner and at such times as the President shall determine: *Provided, however*, That reasonable notice of his intent to refuse to grant a license or to revoke a license granted to any reinsurance company shall be given by him to

all insurance companies incorporated within the United States and known to the President to be doing business with such reinsurance company: *Provided further*, That no insurance company, organized within the United States, shall be obligated to continue any existing contract, entered into prior to the beginning of the war, with any enemy or ally of enemy insurance or reinsurance company, but any such company may abrogate and cancel any such contract by serving thirty days' notice in writing upon the President of its election to abrogate such contract.

For a period of thirty days after the passage of this Act [said sections], and further pending the entry of such order by the President, after application made by any enemy or ally of enemy insurance or reinsurance company, within such thirty days as above provided, the provisions of the President's proclamation of April sixth, nineteen hundred and seventeen, relative to agencies in the United States of certain insurance companies, as modified by the provisions of the President's proclamation of July thirteenth, nineteen hundred and seventeen, relative to marine and war-risk insurance, shall remain in full force and effect so far as it applies to such German insurance companies, and the conditions of said proclamation of April sixth, nineteen hundred and seventeen, as modified by said proclamation of July thirteenth, nineteen hundred and seventeen, shall also during said period of thirty days after the passage of this Act [said sections], and pending the order of the President as herein provided, apply to any enemy or ally of enemy insurance or reinsurance company, anything in this Act [said sections] to the contrary notwithstanding. It shall be unlawful for any enemy or ally of enemy insurance or reinsurance company, to whom license is granted, to transmit out of the United States any funds belonging to or held for the benefit of such company or to use any such funds as the basis for the establishment directly or indirectly of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

For a period of thirty days after the passage of this Act [said sections], and further pending the entry of such order by the President, after application made within such thirty days by any enemy or ally of enemy, other than an insurance or reinsurance company as above provided, it shall be lawful for such enemy or ally of enemy to continue to do business in this country and for any person to trade with, to, from, for, on account of, on behalf of or for the benefit of such enemy or ally of enemy, anything in this Act [said sections] to the contrary notwithstanding: *Provided, however*, That the provisions of sections three and sixteen hereof [sections 3 and 16 of this Appendix] shall apply to any act or attempted act of transmission or transfer of money or other property out of the United States and to the use or attempted use of such money or property as the basis for the establishment of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

If no license is applied for within thirty days after the passage of this Act [said sections], or if a license shall be refused to any enemy or ally of enemy, whether insurance or reinsurance company, or other

person, making application, or if any license granted shall be revoked by the President, the provisions of sections three and sixteen hereof [sections 3 and 16 of this Appendix] shall forthwith apply to all trade or to any attempt to trade with, to, from, for, by, on account of, or on behalf of, or for the benefit of such company or other person: *Provided, however,* That after such refusal or revocation, anything in this Act [said sections] to the contrary notwithstanding, it shall be lawful for a policyholder or for an insurance company, not an enemy or ally of enemy, holding insurance or having effected reinsurance in or with such enemy or ally of enemy insurance or reinsurance company, to receive payment of, and for such enemy or ally of enemy insurance or reinsurance company to pay any premium, return premium, claim, money, security, or other property due or which may become due on or in respect to such insurance or reinsurance in force at the date of such refusal or revocation of license; and nothing in this Act [said sections] shall vitiate or nullify then existing policies or contracts of insurance or reinsurance, or the conditions thereof; and any such policyholder or insurance company, not an enemy or ally of enemy, having any claim to or upon money or other property of the enemy or ally of enemy insurance or reinsurance company in the custody or control of the alien property custodian, hereinafter provided for, or of the Treasurer of the United States, may make application for the payment thereof and may institute suit as provided in section nine hereof [section 9 of this Appendix].

(b) During the present war, no enemy, or ally of enemy, and no partnership of which he is a member or was a member at the beginning of the war, shall for any purpose assume or use name other than that by which such enemy or partnership was ordinarily known at the beginning of the war, except under license from the President.

Whenever, during the present war, in the opinion of the President the public safety or public interest requires, the President may prohibit any or all foreign insurance companies from doing business in the United States, or the President may license such company or companies to do business upon such terms as he may deem proper. (Oct 6, 1917, ch. 106, § 4, 40 Stat. 413.)

REFERENCES IN TEXT

Proclamation of April 6, 1917, 40 Stat. 1654, and Proclamation of July 13, 1917, 40 Stat. 1684, referred to in the text, are set out as notes under this section.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

PROCLAMATION OF APRIL 6, 1917

40 STAT. 1654

Whereas, certain insurance companies, incorporated under the laws of the German Empire, have been admitted to transact the business of insurance in various States of the United States, by means of separate United States branches established pursuant to the laws of such States, and are now engaged in business under the supervision of the Insurance Departments thereof, with assets in the United States deposited with Insurance Departments or in the hands of resident trustees, citizens of the United States, for the protection of all policyholders in the United States;

And whereas, the interests of the citizens of the United States in the protection afforded by such insurance are of great magnitude, so that it is deemed to be important that the agencies of such companies in the United States be permitted to continue in business;

Now, therefore, I, Woodrow Wilson, President of the United States of America, by virtue of the powers vested in me as such, hereby declare and proclaim that such branch establishments of German insurance companies now engaged in the transaction of business in the United States pursuant to the laws of the several States are hereby authorized and permitted to continue the transaction of their business in accordance with the laws of such States in the same manner and to the same extent as though a state of war did not now exist; provided, however, that all funds of such establishments now in the possession of their managers or agents, or which shall hereafter come into their possession, shall be subject to such rules and regulations concerning the payment and disposition thereof as shall be prescribed by the insurance supervising officials of the State in which the principal office of such establishment in the United States is located, but in no event shall any funds belonging to or held for the benefit of such companies be transmitted outside of the United States nor be used as the basis for the establishment directly or indirectly of any credit within or outside the United States to or for the benefit or use of the enemy or any of his allies without the permission of this Government.

PROCLAMATION OF JULY 13, 1917

40 STAT. 1684

Whereas, certain insurance companies, incorporated under the laws of the German Empire, have been admitted to transact the business of marine and war risk insurance in various States of the United States, by means of separate United States branches established pursuant to the laws of such States, and are now engaged in such business under the supervision of the Insurance Departments thereof with assets in the United States deposited with Insurance Departments or in the hands of resident trustees, citizens of the United States, for the protection of all policyholders in the United States;

And whereas, the nature of marine and war risk insurance is such that those conducting it must of necessity be in touch with the movements of ships and cargoes, and it has been considered by the Government of great importance that this information should not be obtained by alien enemies;

Now, therefore, I, Woodrow Wilson, President of the United States of America, by virtue of the powers vested in me as such, hereby declare and proclaim that such branch establishments of German insurance companies now engaged in the transaction of business in the United States pursuant to the laws of the several States are hereby prohibited from continuing the transaction of the business of marine and war risk insurance either as direct insurers or re-insurers; and all individuals, firms, and insurance companies incorporated under the laws of any of the States or Territories of the United States, or of any foreign country, and established pursuant to the laws of such States and now engaged in the United States in the business of marine and war risk insurance either as direct insurers or re-insurers are hereby prohibited from reinsuring with companies incorporated under the laws of the German Empire, no matter where located; and all persons in the United States are prohibited from insuring against marine or war risks with insurance companies incorporated under the laws of the German Empire or with individuals, firms, and insurance companies incorporated under the laws of any of the States or Territories of the United States or of any foreign country and now engaged in the business of marine or war risk insurance in the United States, which re-insure business originating in the United States with companies incorporated under the laws of the German Empire, no matter where located.

The foregoing prohibitions shall extend and operate as to all existing contracts for insurance and re-insurance which are hereby suspended for the period of the war, except that they shall not operate to vitiate or prevent the insurance or re-insurance of, and the payment or receipt of, premiums on insurance or re-insurance under existing contracts on vessels or interest at risk on the date of this proclamation, and such insurance or re-insurance, if for a voyage, shall continue in force until arrival at destination, and if for time, until thirty days from the date of this proclamation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 3, 5, 6, 7 to 39, and 41 to 44 of this Appendix.

§5. Suspension of provisions relating to ally of enemy; regulation of transactions in foreign exchange of gold or silver, property transfers, vested interests, enforcement and penalties.

(a) The President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section four hereof [section 4(a) of this Appendix], and to perform any act made unlawful without such license in section three hereof [section 3 of this Appendix], and to file and prosecute applications under subsection (b) of section ten hereof [section 10(b) of this Appendix]; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; and the President may exercise any power or authority conferred by this Act [said sections] through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section three hereof [section 3 of this Appendix] he shall have authority to order the postponement of the performance of such act for a period not exceeding ninety days, pending investigation of the facts by him.

(b)(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest.

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the

terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof: *Provided, however,* That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term "person" means an individual, partnership, association, or corporation. (Oct. 6, 1917, ch. 106, § 5, 40 Stat. 415; Sept. 24, 1918, ch. 176, § 5, 40 Stat. 966; Mar. 9, 1933, ch. 1, § 2, 48 Stat. 1; May 7, 1940, ch. 185, § 1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, § 301, 55 Stat. 839; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

CODIFICATION

Words "including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas" immediately preceding the proviso in subsection (b) (3) of this section, have been omitted on the authority of 1946 Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, and in which the President proclaimed the independence of the Philippines.

Subsec. (b) is also set out as section 95a of Title 12, Banks and Banking.

AMENDMENTS

1941—Subsec. (b). Act Dec. 18, 1941, considerably broadened the powers of the President to take, administer, control, use and liquidate foreign-owned property and added a flexibility of control which enabled the President and the agencies designated by him to cope with the problems surrounding alien property, its ownership or control, on the basis of the particular facts in each case.

1940—Subsec. (b). Act May 7, 1940, included dealings in evidences of indebtedness or ownership of property in which foreign states, nationals or political subdivisions thereof have an interest.

1933—Subsec. (b). Act Mar. 9, 1933, among other things, extended the President's power to any time of war national emergency, permitted regulations to be issued by any agency designated by the President, provided for the furnishing under oath of complete information relative to transactions under the subsection and placed sanctions on violations to the extent of a \$10,000 fine or ten years imprisonment.

1918—Subsec. (b). Act Sept. 24, 1918, added provisions relating to the hoarding or melting of gold or silver coin or bullion or currency and to the regulation of transactions in bonds or certificates of indebtedness.

DELEGATION OF POWERS

All powers conferred upon the President by subsec. (b) of this section were delegated to the Secretary of the Treasury by Memorandum of the President dated Feb. 12, 1942, 7 F.R. 1409.

Delegation of President's powers under subsec. (b) of this section to the Secretary of the Treasury and the Alien Property Custodian; and transfer of Alien Property Custodian's powers to the Attorney General, see Ex. Ord. Nos. 9095 and 9788, set out in notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

APPROVAL OF REGULATIONS

Act Mar. 9, 1933, ch. 1, title I, § 1, 48 Stat. 1, provided that: "The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the act of October 6, 1917, as amended [section 5(b) of this Appendix], are hereby approved and confirmed."

CROSS REFERENCES

Jurisdiction of courts of Philippine Islands continued, see section 1382 of Title 22, Foreign Relations and Intercourse.

Right to amend, separability of provisions, and ratification of acts done under act Mar. 9, 1933, see sections 212 and 213 of Title 12, Banks and Banking.

EXECUTIVE ORDERS

Ex. Ord. No. 6260, as amended, respecting hoarding, export, and earmarking of gold coin, bullion, or currency and transactions in foreign exchange; Ex.

Ord. No. 6560, as amended, respecting transactions in foreign exchange, transfers of credit, and export of coin and currency; Ex. Ord. No. 8389, as amended, regulating transactions in foreign exchange and foreign-owned property and providing for the reporting of all foreign-owned property; Ex. Ord. No. 9747, respecting continuance of functions of Alien Property Custodian and Treasury Department in Philippines; Ex. Ord. No. 9760, respecting diplomatic property of Germany and Japan; and Ex. Ord. No. 10348, continuing in force orders and regulations relating to blocked property, are set out as notes under section 95a of Title 12, Banks and Banking, and Section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 4, 6, 7 to 39, 41 to 44 of this Appendix, title 12 sections 51b—1, 212, 213.

§ 6. Alien Property Custodian; general powers and duties.

The President is authorized to appoint and prescribe the duties of an official to be known as the alien property custodian, who shall be empowered to receive all money and property in the United States due or belonging to an enemy, or ally of enemy, which may be paid, conveyed, transferred, assigned, or delivered to said custodian under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; and to hold, administer, and account for the same under the general direction of the President and as provided in this Act [said sections]. The President may further employ in the District of Columbia and elsewhere and fix the compensation of such clerks, attorneys, investigators, accountants, and other employees as he may find necessary for the due administration of the provisions of this Act [said sections]; *Provided*, That such clerks, investigators, accountants, and other employees shall be appointed from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil-service law: *Provided further*, That the President shall cause a detailed report to be made to Congress on the first day of January of each year of all proceedings had under this Act [said sections] during the year preceding. Such report shall contain a list of all persons appointed or employed, with the salary or compensation paid to each, and a statement of the different kinds of property taken into custody and the disposition made thereof. (As amended June 6, 1972, Pub. L. 92-310, title II, § 235, 86 Stat. 214.)

AMENDMENTS

1972—Pub. L. 92-310 eliminated provisions which required the Alien Property Custodian to give a bond.

REFERENCES IN TEXT

The civil-service laws, referred to in the text, are classified generally to Title 5, Government Organization and Employees.

CODIFICATION

Provisions which limited the salary of the alien property custodian to not more than \$5,000 per annum were omitted as superseded.

The authority for covering excepted positions into the classified civil service was given the President by section 2102 of Title 5, Government Organization and Employees.

For positions now covered by the Classification Act of 1949, and for the power of the Civil Service Commission to determine the applicability of those sections to specific positions, see sections 5102, 5103, and 5341 of Title 5.

FUNCTIONS TRANSFERRED TO PRESIDENT AND ATTORNEY GENERAL

1947 Reorg. Plan No. 1, § 101, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951, transferred all functions vested by law in the Alien Property Custodian or the Office of the Alien Property Custodian to the Attorney General, except that those relating to property or interests in the Philippines were transferred to the President. For text of this plan and provisions relating to transfer of records, property, personnel, and funds, see the text of the plan, set out in the Appendix of Title 5, Government Organization and Employees.

PREVIOUS OFFICE ABOLISHED

The previous office of Alien Property Custodian was abolished and its functions and personnel transferred to the Department of Justice by Ex. Ord. No. 6694, July 1, 1934.

EXPENSES AND COMPENSATION OF ALIEN PROPERTY CUSTODIAN

Act May 16, 1923, ch. 580, § 1, 45 Stat. 574, contained the following provision: "All expenses of the office of the Alien Property Custodian authorized by * * * [the Trading With the Enemy Act,] including compensation of the Alien Property Custodian at not to exceed \$10,000 per annum; shall be paid from interest and collections on trust funds and other properties under the control of such Custodian."

REPORT TO CONGRESS; INCLUSION OF CLAIMS FILED UNDER SECTION 32(a) (2) (D) OF THIS APPENDIX

Section 2 of act Sept. 29, 1950, ch. 1108, 64 Stat. 1080, provided that: "There shall be included in the report made to Congress pursuant to section 6 of the Trading With the Enemy Act, as amended [this section], a statement of (1) the names and nationalities of persons who have filed notice of claim for the return of any property or interest under section 1 of this Act [section 32(a) (2) (D) of this Appendix], the date of the filing of such notice of claim, and the estimated value of the property or interest, and (2) the names and nationalities of persons to whom returns have been made of any property or interest under section 1 of this Act [section 32(a) (2) (D) of this Appendix] and the value of such property or interest."

EX. ORD. NO. 9095. WORLD WAR II ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 9095, Mar. 11, 1942, F. R. 1971, as amended Ex. Ord. No. 9193, July 6, 1942, 7 F.R. 5205; Ex Ord. No. 9567, June 8, 1945, 10 F.R. 6917, provided:

1. There is hereby established in the Office for Emergency Management of the Executive Office of the President the Office of Alien Property Custodian, at the head of which shall be an Alien Property Custodian appointed by the President. The Alien Property Custodian shall receive compensation at such rate as the President shall approve and in addition shall be entitled to actual and necessary transportation, subsistence, and other expenses incidental to the performance of his duties. Within the limitation of such funds as may be made available for that purpose, the Alien Property Custodian may appoint assistants and other personnel and delegate to them such functions as he may deem necessary to carry out the provisions of this Executive Order.

2. The Alien Property Custodian is authorized and empowered to take such action as he deems necessary in the national interest, including, but not limited to, the power to direct, manage, supervise, control or vest, with respect to:

(a) any business enterprise within the United States which is a national of a designated enemy country and any property of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to or which is evidence of ownership or control of any such business enterprise, and any interest of any nature whatsoever in such business enterprise held by an enemy country or national thereof;

(b) any other business enterprise within the United States which is a national of a foreign country and any property of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to or which is evidence of ownership or control of any such business enterprise, and any interest of any nature whatsoever in such business enterprise held by

a foreign country or national thereof, when it is determined by the Custodian and he has certified to the Secretary of the Treasury that it is necessary in the national interest, with respect to such business enterprise, either (i) to provide for the protection of the property, (ii) to change personnel or supervise the employment policies, (iii) to liquidate, reorganize, or sell, (iv) to direct the management in respect to operations, or (v) to vest;

(c) any other property or interest within the United States of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, a designated enemy country or national thereof: *Provided, however*, That with respect to any such country or national other than Germany or Japan or any national thereof, such property or interest shall not include cash bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange, and securities except to the extent that the Alien Property Custodian determines that such cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange, and securities are necessary for the maintenance or safeguarding of other property belonging to the same designated enemy country or the same national thereof and subject to vesting pursuant to section 2 hereof;

(d) any patent, patent application, design patent, design patent application, copyright, copyright application, trade-mark or trade-mark application or right related thereto in which any foreign country or national thereof has any interest and any property of any nature whatsoever (including, without limitation, royalties and license fees) payable or held with respect thereto, and any interest of any nature whatsoever held therein by any foreign country or national thereof;

(e) any ship or vessel or interest therein, in which any foreign country or national thereof has an interest; and

(f) any property of any nature whatsoever which is in the process of administration by any person acting under judicial supervision or which is in partition, libel, condemnation or other similar proceedings and which is payable or deliverable to, or claimed by, a designated enemy country or national thereof. When the Alien Property Custodian determines to exercise any power and authority conferred upon him by this section with respect to any of the foregoing property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of such property, except as authorized or directed by the Alien Property Custodian.

3. Subject to the provisions of this Executive Order, all powers and authority conferred upon me by sections 3(a) and 5(b) of the Trading With the Enemy Act, as amended [sections 3(a) and 5(a) of this Appendix], are hereby delegated to the Secretary of the Treasury or any person, agency, or instrumentality designated by him: *Provided, however*, That when any property or interest, not belonging to a foreign government or central bank, shall be vested by the Secretary of the Treasury, such property or interest shall be vested in, and dealt with by, the Alien Property Custodian upon the terms directed by the Secretary of the Treasury. Except as otherwise provided herein, this Executive Order shall not be deemed to modify or amend Executive Order No. 8389, as amended, or the President's Proclamation of July 17, 1941, or Executive Order No. 8839, as amended, or the regulations, rulings, licenses and other action taken thereunder or in connection therewith.

4. Without limitation as to any other powers or authority of the Secretary of the Treasury or the Alien Property Custodian under any other provision of this Executive Order, the Secretary of the Treasury and the Alien Property Custodian are authorized and empowered, either jointly or severally, to prescribe from time to time, regulations, rulings, and instructions to carry out the purposes of this Executive Order. The Secretary of the Treasury and the Alien Property Custodian each shall make available to the other all information in his files to enable the other to discharge his functions, and shall keep each other currently informed as to investigations being conducted with respect to enemy ownership or control of business enterprises within the United States.

5. The Alien Property Custodian is authorized to issue appropriate regulations governing the service of process or notice upon any person within any designated enemy country or any enemy-occupied territory in connection with any court or administrative action or proceeding within the United States. The Alien Property Custodian also is authorized to take such other and further measures in connection with representing any such person in any such action or proceeding as in his judgment and discretion is or may be in the interest of the United

States. If, as a result of any such action or proceeding, any such person obtains, or is determined to have, an interest in any property (including money judgments), such property, less an amount equal to the costs and expenses incurred by the Alien Property Custodian in such action or proceeding shall be subject to the provisions of Executive Order No. 8839, as amended: *Provided, however*, That this shall not be deemed to limit the powers of the Alien Property Custodian under section 2 of this Order; *And provided further*, That the Alien Property Custodian may vest an amount of such property equal to the costs and expenses incurred by the Alien Property Custodian in such action or proceeding.

6. To enable the Alien Property Custodian to carry out his functions under this Executive Order, there are hereby delegated to the Alien Property Custodian or any person, agency, or instrumentality designated by him all powers and authority conferred upon me by section 5(b) of the Trading With the Enemy Act, as amended [section 5(b) of this Appendix], including, but not limited to, the power to make such investigations and require such reports as he deems necessary or appropriate to determine whether any enterprise or property should be subject to his jurisdiction and control under this Executive Order. The powers and authority conferred upon the Alien Property Custodian by Executive Order No. 9142 shall be administered by him in conformity with the provisions of this Executive Order.

7. In the exercise of the authority herein delegated, the Alien Property Custodian shall be subject to the provisions of Executive Order No. 8839 of July 30, 1941, and shall designate a representative to the Board of Economic Warfare in accordance with section 6 thereof.

8. All records and other property (including office equipment) of the Treasury Department which are used primarily in the administration of powers and duties to be exercised by the Alien Property Custodian, and such personnel as is used primarily in the administration of such powers and duties and which was hired by the Treasury Department after September 1, 1941 (including officers whose chief duties relate to the administration of such powers and duties), as the Secretary of the Treasury and the Alien Property Custodian shall jointly certify for transfer, shall be transferred to the Office of the Alien Property Custodian. In the event of disagreement concerning the transfer of any personnel, records, or property, the determination shall be made by the Director of the Bureau of the Budget, pursuant to the formula here prescribed. Any personnel transferred pursuant to this Executive Order shall be transferred without loss of such Civil Service status or eligibility therefore as they may have.

9. This Executive Order shall not be deemed to modify or amend Executive Order No. 8843 of August 9, 1941, and the regulations, rulings, licenses and other action taken thereunder. Any and all action heretofore taken by the Secretary of the Treasury or the Alien Property Custodian, or by any person, agency, or instrumentality designated by either of them, pursuant to sections 3(a) and 5(b) of the Trading With the Enemy Act, as amended [sections 3(a) and 5(b) of this Appendix], or pursuant to prior Executive Orders, and any and all action heretofore taken by the Board of Governors of the Federal Reserve System pursuant to Executive Order No. 8843 of August 9, 1941, are hereby confirmed and ratified.

10. For the purpose of this Executive Order:

(a) The term "designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country with which the United States is at war in the future. The term "national" shall have the meaning prescribed in section 5 of Executive Order No. 8839, as amended: *Provided, however*, That persons not within designated enemy countries (even though they may be within enemy-occupied countries or areas) shall not be deemed to be nationals of a designated enemy country unless the Alien Property Custodian determines: (i) that such person is controlled by or acting for or on behalf of (including cloaks for) a designated enemy country or a person within such country; or (ii) that such person is a citizen or subject of a designated enemy country and within an enemy-occupied country or area; or (iii) that the national interest of the United States requires that such person be treated as a national of a designated enemy country. For the purpose of this Executive Order any determination by the Alien Property Custodian that any property or interest of any foreign country or national thereof is the property or interest of a designated enemy country or national thereof shall be final and conclusive as the power of the Alien Property Custodian to

exercise any of the power or authority conferred upon me by section 5(b) of the Trading With the Enemy Act, as amended [section 5(b) of this Appendix].

(b) The term "business enterprise within the United States" shall mean any individual proprietorship, partnership, corporation or other organization primarily engaged in the conduct of a business within the United States, and any other individual proprietorship, partnership, corporation or other organization to the extent that it has an established office within the United States engaged in the conduct of business within the United States.

11. The Secretary of the Treasury or the Alien Property Custodian, as the case may be, shall, except as otherwise agreed to by the Secretary of State, consult with the Secretary of State before vesting any property or interest pursuant to this Executive Order, and the Secretary of the Treasury shall consult with the Secretary of State before issuing any Order adding any additional foreign countries to section 3 of Executive Order No. 8389, as amended.

12. Any orders, regulations, rulings, instructions, licenses or other actions issued or taken by any person, agency or instrumentality referred to in this Executive Order, shall be final and conclusive as to the power of such person, agency or instrumentality to exercise any of the power or authority conferred upon me by sections 3(a) and 5(b) of the Trading With the Enemy Act, as amended [sections 3(a) and 5(b) of this Appendix]; and to the extent necessary and appropriate to enable them to perform their duties and functions hereunder, the Secretary of the Treasury and the Alien Property Custodian shall be deemed to be authorized to exercise severally any and all authority, rights, privileges and powers conferred on the President by sections 3(a) and 5(b) of the Trading With the Enemy Act of October 6, 1917, as amended, [sections 3(a) and 5(b) of this Appendix] and by sections 301 and 302 of Title III of the First War Powers Act, 1941, approved December 18, 1941 (section 616 and 617 of this Appendix). No person affected by any order, regulation, ruling, instruction, license or other action was within the jurisdiction of the Alien Property or the Alien Property Custodian shall be entitled to challenge the validity thereof or otherwise excuse his actions, or failure to act, on the ground that pursuant to the provisions of this Executive Order, such order, regulation, ruling, instruction, license or other action issued or taken by either the Secretary of Treasury Custodian rather than the Secretary of the Treasury or vice versa.

13. Any regulations, rulings, instructions, licenses, determinations or other actions issued, made or taken by any agency or person referred to in this Executive Order, purporting to be under the provisions of this Executive Order or any other proclamation, order or regulation, issued under sections 3(a) or 5(b) of the Trading With the Enemy Act, as amended [sections 3(a) and 5(b) of this Appendix], shall be conclusively presumed to have been issued, made or taken after appropriate consultation as herein required and after appropriate certification in any case in which a certification is required pursuant to the provisions of this Executive Order.

**EX. ORD. NO. 9142. TRANSFER OF CERTAIN FUNCTIONS, PROPERTY AND PERSONNEL
FROM DEPARTMENT OF JUSTICE TO ALIEN PROPERTY CUSTODIAN**

Ex. Ord. No. 9142, Apr. 21, 1942, 7. F. R. 2985, provided:

1. All authority, rights, privileges, powers, duties, and functions transferred or delegated to the Department of Justice, to be administered under the supervision of the Attorney General, by Executive Order No. 6694 of May 1, 1934, or vested in, transferred or delegated to, the Attorney General or the Assistant Attorney General in charge of the Claims Division of the Department of Justice, by Executive Order No. 8136 of May 15, 1939, are hereby transferred to the Alien Property Custodian provided for by Executive Order No. 9095, dated March 11, 1942.

2. Subject to the provisions of paragraph 5 hereof, all property of the Alien Property Division of the Department of Justice, including records, files, supplies, furniture, and equipment, and all funds, securities, choses in action, real estate, patents, trade-marks, copyrights, and all other property of whatsoever kind, held or administered by the Attorney General under and pursuant to the Trading With the Enemy Act, as amended, are hereby transferred to the Alien Property Custodian, to be administered and disposed of under his supervision and direction.

3. All administrative or general or other expenses of the Office of the Alien Property Custodian in the administration of the Trading With the Enemy Act,

as amended, including the administration of Executive Order No. 9095, may be paid out of any funds or other property transferred to the Alien Property Custodian hereunder, whether or not such expenses relate to the property transferred hereunder, or were incurred before or after March 11, 1942.

4. The personnel of the Alien Property Division of the Department of Justice is hereby transferred to the Office of the Alien Property Custodian without loss of such civil service status or eligibility therefor as they may have.

5. All litigation in which the Alien Property Custodian or the Office of the Alien Property Custodian is interested shall be conducted under the supervision of the Attorney General. The Department of Justice and the Attorney General shall from time to time render such advice on legal matters to the Alien Property Custodian and the Office of the Alien Property Custodian as the Attorney General and the Alien Property Custodian may from time to time agree upon. For the purpose of defraying such expenses as may be incurred by the Department of Justice or the Attorney General in the rendering of advice as aforesaid or in the conduct of litigation in which the Alien Property Custodian or the Office of Alien Property Custodian is interested, including expenses for salaries of personnel and all other charges, the Alien Property Custodian may from time to time make available out of the funds or other property in his possession or control such funds as the Attorney General and the Alien Property Custodian may from time to time agree to be necessary therefor. Nothing in this order shall be construed to require the Department of Justice to surrender possession of any files and records relating to any litigation heretofore or hereafter conducted by it.

6. This order shall not be construed as modifying or limiting in any way the authority heretofore granted to the Federal Bureau of Investigation.

7. This order shall remain in force during the continuance of the present war and for six months after the termination thereof.

8. All prior Executive orders insofar as they are in conflict herewith are hereby superseded.

EX. ORD. NO. 9325. PAYMENT OF EXPENSES OF THE OFFICE OF ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 9325, Apr. 7, 1943, 8 F.R. 1682, provided:

1. Until it is otherwise provided, the Alien Property Custodian is authorized and empowered to pay out of any funds lawfully in his custody or under his control all necessary expenses incurred by the Office of Alien Property Custodian in carrying out the powers and duties vested in him pursuant to Title III of the First War Powers Act, 1941 [sections 616—618 of this Appendix], and the applicable orders issued thereunder. Such expenses shall be allocated and recovered as provided in section 2 hereof.

2. The Alien Property Custodian is authorized to retain, allocate and recover, as a charge against any specific property or any other property of which the former owner of the specific property was divested, expenses attributable to such specific property with respect to which he has exercised or may hereafter exercise any power heretofore or hereafter conferred upon him. In addition to such expenses, the Alien Property Custodian is authorized to retain, allocate and recover at such time or times as he may deem practicable, as a charge against money or property in his custody or under his control, such amounts as may be necessary in connection with the general administrative expenses of the Office of Alien Property Custodian which have been or may be paid and which are not practically allocable to a specific property.

3. The power and authority herein granted shall not be limited by the filing of a claim or the institution of a suit relating to any property subject to the authority of the Alien Property Custodian.

4. This order shall not be construed as a limitation upon or in derogation of any powers heretofore granted.

5. The Office of Alien Property Custodian shall submit to the Bureau of the Budget (a) prior to April 30, 1943, an estimate of general administrative expenses for the remainder of the current fiscal year, (b) prior to the end of the current and of each subsequent fiscal year, at such time as may be specified by the Director of the Bureau of the Budget, an estimate of such expenses for the succeeding fiscal year, and (c) any supplemental estimates of such expenses if and as the need arises. After April 30, 1943, no general administrative expenses authorized to be paid pursuant to this order shall be incurred or paid by the Office of Alien Property Custodian beyond the amounts approved by the Director of the Bureau of the Budget upon submissions as above set forth.

**EX. ORD. No. 9747, FUNCTIONS OF ALIEN PROPERTY CUSTODIAN AND TREASURY
DEPARTMENT CONTINUED IN PHILIPPINES**

Ex. Ord. No. 9747, July 8, 1946, 11 F.R. 7518 provided that the powers of the Alien Property Custodian under Ex. Ord. No. 9095, set out in note to this section, should continue to be exercised in the Philippines after July 4, 1946. It also provided that the Secretary of the Treasury should continue to exercise his powers in the Philippines under Ex. Ord. No. 8389, Apr. 10, 1940, set out as a note under section 95a of Title 12, Banks and Banking.

**EX. ORD. No. 9760. AUTHORITY OF SECRETARY OF STATE REGARDING DIPLOMATIC
PROPERTY OF GERMANY AND JAPAN**

1. The Secretary of State is authorized and empowered as he deems necessary in the national interest to direct, manage, supervise, or control diplomatic and consular property within the United States owned or controlled by Germany or Japan, including all assets on the premises of such property.

2. The Alien Property Custodian shall not exercise any power and authority conferred upon him by any other Executive order with respect to diplomatic and consular property within the United States owned or controlled by Germany or Japan except so far as the Secretary of State releases his authority over such diplomatic and consular property under this order and so notifies the Alien Property Custodian in writing.

3. When the Secretary of State determines to exercise any power and authority conferred upon him by this order with respect to any property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of such property, except as authorized or directed by the Secretary of State.

4. This order supersedes all conflicting provisions of prior Executive orders, including Executive Orders Nos. 8389, as amended [note following section 95a of Title 12] and 9095, as amended [note following this section].

5. The Secretary of State is authorized to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this order.

**EX. ORD. No. 9788. TERMINATION OF OFFICE OF WORLD WAR II ALIEN PROPERTY
CUSTODIAN AND TRANSFERENCE OF ITS FUNCTIONS TO THE ATTORNEY GENERAL**

Ex. Ord. No. 9788, Oct. 14, 1946, 11 F.R. 11981, provided:

1. The Office of Alien Property Custodian in the Office of Emergency Management of the Executive Office of the President, established by Executive Order No. 9095 of March 11, 1942 [set out as a note under this section], is hereby terminated; and all authority, rights, privileges, powers, duties, and functions vested in such Office or in the Alien Property Custodian or transferred or delegated thereto are hereby vested in or transferred or delegated to the Attorney General, as the case may be, and shall be administered by him or under his direction and control by such officers and agencies of the Department of Justice as he may designate.

2. All property or interests vested in or transferred to the Alien Property Custodian or seized by him, and all proceeds thereof, which are held or administered by him on the effective date of this order are hereby transferred to the Attorney General.

3. All personnel, property, records, and funds of the Office of Alien Property Custodian are hereby transferred to the Department of Justice.

4. This order supersedes all prior Executive orders to the extent that they are in conflict with this order.

5. This order shall become effective on October 15, 1948.

PHILIPPINE ALIEN PROPERTY ADMINISTRATION

Ex. Ord. No. 9818, Jan. 8, 1947, 12 F.R. 133, set out as a note under section 1382 of Title 22, Foreign Relations and Intercourse, established the Philippine Alien Property Administration.

EXECUTIVE ORDER No. 9989

Ex. Ord. No. 9989, Aug. 20, 1948, 13 F.R. 4891, which was formerly set out as a note under this section and which transferred jurisdiction over blocked assets

to the Attorney General, was superseded by Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, set out below.

EXECUTIVE No. 10348

Ex. Ord. No. 10348, Apr. 28, 1952, 17 F.R. 3769, which was formerly set out as a note under this section and which continued in force Ex. Ord. No. 9989, was superseded by Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, set out below.

EX. ORD. NO. 11281. TRANSFERRING JURISDICTION OVER BLOCKED ASSETS FROM ATTORNEY GENERAL TO SECRETARY OF TREASURY

Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, provided:

WHEREAS before October 1, 1948, the Secretary of the Treasury administered the blocking controls and other restrictions over property and interests of certain foreign countries or their nationals that had been imposed, under the authority of section 5(b) of the Trading with the Enemy Act, as amended (50 U.S.C. App. 5(b)), by means of and under Executive Order No. 8389 of April 10, 1940, as amended [set out as a note preceding section 95a of Title 12]; and

WHEREAS by Executive Order No. 9989 of August 20, 1948, jurisdiction over the property and interests which remained blocked or restricted under Executive Order No. 8389 on September 30, 1948, was transferred, effective October 1, 1948, to the Attorney General to aid him in carrying out his functions as successor to the Alien Property Custodian, including, among others, the function of vesting property pursuant to the provisions of the Trading with the Enemy Act, as amended [section 1 et seq. of this Appendix]; and

WHEREAS by Executive Order No. 10644 of November 7, 1955 [set out as a note under section 1631a of Title 22], the Attorney General was designated to carry out the functions of the President under Title II of the International Claims Settlement Act of 1949 (as added by the Act of August 9, 1955, Public Law 285, 84th Congress, 69 Stat. 562) [sections 1631-1631n of Title 22], including certain vesting and blocking functions required by section 202 of that Act 22 (U.S.C. 1631a), and the Attorney General, as designee of the President, exercises controls under Executive Order No. 8389 with respect to the net proceeds of certain property that are carried, pursuant to section 202, in blocked accounts with the Treasury; and

WHEREAS the functions of vesting property under the Trading with the Enemy Act and under section 202 of the International Claims Settlement Act of 1949 have been terminated; and

WHEREAS the blocking controls not exercised by the Attorney General under Executive Order No. 8389 are limited in application to property of Hungary or its nationals acquired on or before January 1, 1945; property of Czechoslovakia, Estonia, Latvia, Lithuania or nationals of those countries acquired on or before December 7, 1945; property of East Germany or its nationals acquired on or before December 31, 1946, and certain securities scheduled in General Rulings No. 5 and No. 5B, as amended (8 CFR 511.205 and 511.205b); and

WHEREAS the Office of Alien Property, through which the Attorney General carries out or has carried out the various responsibilities described above, will be abolished on or before June 30, 1966, and the Attorney General thereafter will not be in a position to administer blocking controls under Executive Order No. 8389 efficiently; and

WHEREAS in the interest of efficiency it is desirable to return to the Secretary of the Treasury jurisdiction over the property and interests remaining subject to such blocking controls:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and the laws of the United States, including the Trading with the Enemy Act, as amended, Title II of the International Claims Settlement Act of 1949 and section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The authority granted to the Attorney General by Executive Order No. 9989 with respect to property and interests blocked or otherwise subject to restriction under Executive Order No. 8389 is hereby terminated and Executive Order No. 9989 is hereby superseded.

SEC. 2. The Secretary of the Treasury shall hereafter be responsible for the administration of the controls exercisable under Executive Order No. 8389, and he is authorized and directed to take such action as he may deem necessary with respect to any property or interest that remains blocked or restricted under

Executive Order No. 8389 on the effective date of this order. In the performance of the functions and duties hereby reassigned to him, the Secretary of the Treasury may act personally or through any officer, person, agency or instrumentality designated by him.

SEC. 3. All orders, regulations, rulings, instructions or licenses issued prior to the effective date of this order by the Attorney General or the Secretary of the Treasury with respect to any of the property or interests referred to in Section 2 shall continue in full force and effect except as hereafter amended, modified or revoked by the Secretary of the Treasury.

SEC. 4. No person affected by any order, regulation, ruling, instruction, license or other action issued or taken by either the Attorney General or the Secretary of the Treasury in the administration of Executive Order No. 8389 may challenge the validity thereof or otherwise excuse any action, or failure to act, on the ground that it was within the jurisdiction of the Secretary of the Treasury rather than the Attorney General or *vice versa*.

SEC. 5. Section 1 of Executive Order No. 10644 of November 7, 1955, is hereby amended to read as follows:

"SECTION 1. (a) With the exception of the functions referred to in subsection (b) of this section, the Attorney General, and, as designated by the Attorney General for this purpose, any Assistant Attorney General are hereby designated and empowered to perform the functions conferred by Title II of the International Claims Settlement Act of 1949 upon the President, and the functions conferred by that title upon any designee of the President.

"(b) The Secretary of the Treasury, and any officer, person, agency or instrumentality designated by the Secretary of the Treasury for this purpose, as hereby designated and empowered to perform the functions conferred upon the President by section 202 of Title II with respect to the release of blocked property and of the net proceeds of property that are carried in blocked accounts with the Treasury."

SEC. 6. Executive Order No. 8389, this order and all delegations, designations, regulations, rulings, instructions and licenses issued or to be issued under Executive Order No. 8389 or this order are hereby continued in force according to their terms for the duration of the period of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950 [set out as a note preceding section 1 of this Appendix]. Executive Order No. 10348 of April 26, 1952 is hereby superseded.

SEC. 7. Nothing in this order shall be deemed to revoke or limit any powers heretofore conferred on the Secretary of the Treasury by or under any statute or Executive order, or to revoke or limit any powers heretofore conferred upon the Attorney General by or under any statute or Executive order other than Executive Order No. 9989 or No. 10644.

SEC. 8. This order shall become effective at midnight May 15, 1966.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 5, 7 to 39, and 41 to 44 of this Appendix.

§ 6a. Incurrence of expenses by Office of Alien Property Custodian.

After June 30, 1945, the Office of Alien Property Custodian shall not incur any obligations for the expenses of said Office except pursuant to a further annual authorization by the Congress specifically therefor. (Dec. 22, 1944, ch. 660, title I, § 101, 58 Stat. 855.)

CODIFICATION

Section was not enacted as a part of the Trading With the Enemy Act of 1917, which comprises sections 1-6, 7-39, 41-44 of this Appendix.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

REPORT TO CONGRESS ON EXPENSES

Act Dec. 22, 1944, ch. 660, title I, § 101, provided in part: "On or before April 1, 1945, the Alien Property Custodian shall make a report to the Appropriations Committees of the Senate and the House of Representatives giving detailed information on all administrative and nonadministrative expenses incurred in connection with the activities of the Office of Alien Property Custodian."

§ 6b. Payment of expenses by the Attorney General.

The Attorney General, or such officer as he may designate, is authorized to pay out of any funds or other property or interest vested in him or transferred to him pursuant to or with respect to the Trading With the Enemy Act of October 6, 1917, as amended [sections 1 to 6, 7 to 39, 41 to 44 of this Appendix] and the International Claims Settlement Act as amended [sections 1621 to 1627, 1631 to 1631n, and 1641 to 1641q of Title 22], necessary expenses incurred in carrying out the powers and duties conferred on the Attorney General pursuant to said Act. (Pub. L. 90-470, title II, § 201, Aug. 9, 1968, 82 Stat. 673.)

CODIFICATION

Section was not enacted as a part of the Trading With the Enemy Act of 1917, which comprises sections 1-6, 7-39 and 41-44 of this Appendix.

SIMILAR PROVISIONS

Similar provisions were carried in prior appropriation acts:

- 1967—Nov. 9, 1967, Pub. L. 90-133, title II, § 201, 81 Stat. 416.
- 1966—Nov. 8, 1966, Pub. L. 89-797, title II, § 201, 80 Stat. 1484.
- 1965—Sept. 2, 1965, Pub. L. 89-164, title II, § 201, 79 Stat. 625.
- 1964—Aug. 31, 1964, Pub. L. 88-527, title II, § 201, 78 Stat. 716.
- 1962—Dec. 30, 1963, Pub. L. 88-245, title II, § 201, 77 Stat. 781.
- 1962—Oct. 18, 1962, Pub. L. 87-843, title II, § 201, 76 Stat. 1085.
- 1961—Sept. 21, 1961, Pub. L. 87-264, title II, § 201, 75 Stat. 550.
- 1960—Aug. 31, 1960, Pub. L. 86-678, title II, § 201, 74 Stat. 564.
- 1959—July 13, 1959, Pub. L. 86-84, title II, § 201, 73 Stat. 189.
- 1958—June 30, 1958, Pub. L. 85-474, title II, § 201, 72 Stat. 252.
- 1957—June 11, 1957, Pub. L. 85-49, title II, § 201, 71 Stat. 63.
- 1956—June 20, 1956, ch. 414, title II, § 201, 70 Stat. 308.
- 1955—July 7, 1955, ch. 279, title II, § 201, 69 Stat. 273.
- 1954—July 2, 1954, ch. 456, title II, § 201, 68 Stat. 421.
- 1953—Aug. 5, 1953, ch. 328, title II, § 201, 67 Stat. 375.
- 1952—July 10, 1952, ch. 651, title II, § 201, 66 Stat. 559.
- 1951—Oct. 22, 1951, ch. 533, title II, § 201, 65 Stat. 585.
- 1950—Sept. 6, 1950, ch. 896, ch. III, title II, § 201, 64 Stat. 619.
- 1949—July 20, 1949, ch. 354, title II, § 201, 63 Stat. 461.

- § 7. Lists of enemy or ally of enemy officers, directors or stockholders of corporations in United States; acts constituting trade with enemy prior to passage of Act; conveyance of property to custodian; voluntary payment to custodian by holder; acts under order, rule, or regulation.

(a) Every corporation incorporated within the United States, and every unincorporated association, or company, or trustee, or trustees within the United States, issuing shares or certificates representing beneficial interests, shall, under such rules and regulations as the President may prescribe and, within sixty days after the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and at such other times thereafter as the President may require, transmit to the alien property custodian a full list, duly sworn to, of every officer.

director, or stockholder known to be, or whom the representative of such corporation, association, company, or trustee has reasonable cause to believe to be an enemy or ally of enemy resident within the territory, or a subject or citizen residing outside of the United States, of any nation with which the United States is at war, or resident within the territory, or a subject or citizen residing outside of the United States, of any ally of any nation with which the United States is at war, together with the amount of stock or shares owned by each such officer, director, or stockholder, or in which he has any interest.

The President may also require a similar list to be transmitted of all stock or shares owned on February third, nineteen hundred and seventeen, by any person now defined as an enemy or ally of enemy, or in which any such person had any interest; and he may also require a list to be transmitted of all cases in which said corporation, association, company, or trustee has reasonable cause to believe that the stock or shares on February third, nineteen hundred and seventeen, were owned or are owned by such enemy or ally of enemy, though standing on the books in the name of another: *Provided, however,* That the name of any such officer, director, or stockholder, shall be stricken permanently or temporarily from such list by the alien property custodian when he shall be satisfied that he is not such enemy or ally of enemy.

Any person in the United States who holds or has or shall hold or have custody or control of any property beneficial or otherwise, alone or jointly with others, of, for, or on behalf of an enemy or ally of enemy, or of any person whom he may have reasonable cause to believe to be an enemy or ally of enemy and any person in the United States who is or shall be indebted in any way to an enemy or ally of enemy, or to any person whom he may have reasonable cause to believe to be an enemy or ally of enemy, shall, with such exceptions and under such rules and regulations as the President shall prescribe, and within thirty days after the passage of this Act [said sections], or within thirty days after such property shall come within his custody or control, or after such debt shall become due, report the fact to the alien-property custodian by written statement under oath containing such particulars as said custodian shall require. The President may also require a similar report of all property so held, or, for, or on behalf of, and of all debts so owed to, any person now defined as an enemy or ally of enemy, on February third, nineteen hundred and seventeen: *Provided,* That the name of any person shall be stricken from the said report by the alien property custodian, either temporarily or permanently, when he shall be satisfied that such person is not an enemy or ally of enemy. The President may extend the time for filing the lists or reports required by this section for an additional period not exceeding ninety days.

(b) Nothing in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] contained shall render valid or legal, or be construed to recognize as valid or legal, any act or transaction constituting trade with, to, from, for or on account of, or on behalf or for the benefit of an enemy performed or engaged in since the beginning of the war and prior to the passage of this Act [said sections] or any such act or transaction hereafter performed or engaged in except as authorized hereunder, which would otherwise have been or be void, illegal, or

invalid at law. No conveyance, transfer, delivery, payment, or loan of money or other property, in violation of section three hereof [section 3 of this Appendix], made after the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and not under license as herein provided shall confer or create any right or remedy in respect thereof; and no person shall by virtue of any assignment, indorsement, or delivery to him of any debt, bill, note, or other obligation or chose in action by, from, or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy have any right or remedy against the debtor, obligor, or other person liable to pay, fulfill, or perform the same unless said assignment, indorsement, or delivery was made prior to the beginning of the war or shall be made under license as herein provided, or unless, if made after the beginning of the war and prior to the date of passage of this Act [said sections], the person to whom the same was made shall prove lack of knowledge and of reasonable cause to believe on his part that the same was made by, from or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy; and any person who knowingly pays, discharges, or satisfies any such debt, note, bill, or other obligation or chose in action shall, on conviction thereof, be deemed to violate section three hereof [section 3 of this Appendix]: *Provided*, That nothing in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] contained shall prevent the carrying out, completion, or performance of any contract, agreement, or obligation originally made with or entered into by an enemy or ally of enemy where, prior to the beginning of the war and not in contemplation thereof, the interest of such enemy or ally of enemy devolved by assignment or otherwise upon a person not an enemy or ally of enemy, and no enemy or ally of enemy will be benefited by such carrying out completion, or performance otherwise than by release from obligation thereunder.

Nothing in this Act [said sections] shall be deemed to prevent payment of money belonging or owing to an enemy or ally of enemy to a person within the United States not an enemy or ally of enemy, for the benefit of such person or of any other person within the United States, not an enemy or ally of enemy, if the funds so paid shall have been received prior to the beginning of the war and such payments arise out of transactions entered into prior to the beginning of the war, and not in contemplation thereof: *Provided*, That such payment shall not be made without the license of the President, general or special, as provided in this Act [said sections].

Nothing in this Act [said sections] shall be deemed to authorize the prosecution of any suit or action at law or in equity in any court within the United States by an enemy or ally of enemy prior to the end of the war, except as provided in section ten hereof [section 10 of this Appendix]: *Provided, however*, That an enemy or ally of enemy licensed to do business under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] may prosecute and maintain any such suitor action so far as the same arises solely out of the business transacted within the United States under such license and so long as such license remains in full force and effect: *And provided further*, That an enemy or ally of enemy may defend by counsel any suit in equity or action at law which may be brought against him.

Receipt of notice from the President to the effect that he has reasonable ground to believe that any person is an enemy or ally of enemy shall be prima facie defense to any one receiving the same, in any suit or action at law or in equity brought or maintained, or to any right or set-off or recoupment asserted by, such person and based on failure to complete or perform since the beginning of the war any contract or other obligation. In any prosecution under section sixteen hereof [section 16 of this Appendix] proof of receipt of notice from the President to the effect that he has reasonable cause to believe that any person is an enemy or ally of enemy shall be prima facie evidence that the person receiving such notice has reasonable cause to believe such other person to be an enemy or ally of enemy within the meaning of [section three hereof section 3 of this Appendix].

(c) If the President shall so require any money or other property including (but not thereby limiting the generality of the above) patents, copyrights, applications therefor, and rights to apply for the same, trade marks, choses in action, and rights and claims of every character and description owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian, or the same may be seized by the Alien Property Custodian; and all property thus acquired shall be held, administered and disposed of as elsewhere provided in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix].

Any requirement made pursuant to this Act [said sections], or a duly certified copy thereof, may be filed, registered, or recorded in any office for the filing, registering, or recording of conveyances, transfers, or assignments of any such property or rights as may be covered by such requirement (including the proper office for filing, registering, or recording conveyances, transfers, or assignments of patents, copyrights, trade-marks, or any rights therein or any other rights); and if so filed, registered, or recorded shall impart the same notice and have the same force and effect as a duly executed conveyance, transfer, or assignment to the Alien Property Custodian so filed, registered, or recorded.

Whenever any such property shall consist of shares of stock or other beneficial interest in any corporation, association, or company or trust, it shall be the duty of the corporation, association, or company or trustee or trustees issuing such shares or any certificates or other instruments representing the same or any other beneficial interest to cancel upon its, his, or their books all shares of stock or other beneficial interest standing upon its, his, or their books in the name of any person or persons, or held for, on account of, or on behalf of, or for the benefit of any person or persons who shall have been determined by the President, after investigation, to be an enemy or ally of enemy, and which shall have been required to be conveyed, transferred, assigned, or delivered to the Alien Property Custodian or seized by him, and in lieu thereof to issue certificates or other instruments for such shares or other beneficial interest to the Alien Property Custodian or otherwise, as the Alien Property Custodian shall require.

The sole relief and remedy of any person having any claim to any money or other property heretofore or hereafter conveyed, transferred, assigned, delivered or paid over to the Alien Property Custodian, or required so to be, or seized by him shall be that provided by the terms of this Act [said sections], and in the event of sale or other disposition of such property by the Alien Property Custodian, shall be limited to and enforced against the net proceeds received therefrom and held by the Alien Property Custodian or by the Treasurer of the United States.

(d) If not required to pay, convey, transfer, assign, or deliver under the provisions of subsection (c) of this section, any person not an enemy or ally of enemy who owes to, or holds for, or on account of, or on behalf of, or for the benefit of an enemy or of an ally of enemy not holding a license granted by the President hereunder, any money or other property, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for payment, may, at his option, with the consent of the President, pay, convey, transfer, assign, or deliver to the alien property custodian said money or other property under such rules and regulations as the President shall prescribe.

(e) No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix].

Any payment, conveyance, transfer, assignment, or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owed to an enemy or ally of enemy, deliver up any notes, bonds, or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee. The President shall issue to every person so appointed a certificate of the appointment and authority of such person; and such certificate shall be received in evidence in all courts within the United States. Whenever any such certificate of authority shall be offered to any registrar, clerk, or other recording officer, Federal or otherwise, within the United States, such officer shall record the same in like manner as a power of attorney, and such record or a duly certified copy thereof shall be received in evidence in all courts of the United States or other courts within the United States. (Oct. 6, 1917, ch. 106 § 7, 40 Stat. 416; Nov. 4, 1918, ch. 201, § 1, 40 Stat. 1020.)

AMENDMENTS

1918—Subsec. (c). Act Nov. 4, 1918, added provisions on the recording of property transfers, the cancellation of enemy owned stock by corporations, and the restriction of claims to relief provided by the terms of sections 1-6, 7-39 and 41-44 of this Appendix.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

CROSS REFERENCES

- Actions by and against Custodian, see sections 9, 10, 12 and 17 of this Appendix.
- Claims to property transferred to Custodian, see section 9 of this Appendix.
- Corporations, voting of stock and dividends after seizure, see section 12 of this Appendix.
- Enforcement of seizures, see section 17 of this Appendix.
- Nature of Custodian's right or title after seizures, see section 12 of this Appendix.
- Recovery of property erroneously seized, see section 9 of this Appendix.
- Waiver of demand and compromise settlement, see section 29 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 8 to 39, 41 to 44 of this Appendix.

§8. Contracts, mortgages, or pledges against or with enemy or ally of enemy; abrogation of contracts; suspension of limitations.

(a) Any person not an enemy or ally of enemy holding a lawful mortgage, pledge, or lien, or other right in the nature of security in property of an enemy or ally of enemy which, by law or by the terms of the instrument creating such mortgage, pledge, or lien, or right, may be disposed of on notice or presentation or demand, and any person not an enemy or ally of enemy who is a party to any lawful contract with an enemy or ally of enemy, the terms of which provide for a termination thereof upon notice or for acceleration of maturity on presentation or demand, may continue to hold said property, and, after default, may dispose of the property in accordance with law or may terminate or mature such contract by notice or presentation or demand served or made on the alien property custodian in accordance with the law and the terms of such instrument or contract and under such rules and regulations as the President shall prescribe; and such notice and such presentation and demand shall have, in all respects, the same force and effect as if duly served or made upon the enemy or ally of enemy personally: *Provided*, That no such rule or regulation shall require that notice or presentation or demand shall be served or made in any case in which, by law or by the terms of said instrument or contract, no notice, presentation, or demand was, prior to the passage of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], required; and that in case were, by law or by the terms of such instrument or contract, notice is required, no longer period of notice shall be required: *Provided further*, That if, on any such disposition of property, a surplus shall remain after the satisfaction of the mortgage, pledge, lien, or other right in the nature of security, notice of that fact shall be given to the President pursuant to such rules and regulations as he may prescribe, and such surplus shall be held subject to his further order.

(b) Any contract entered into prior to the beginning of the war between any citizen of the United States or any corporation organized within the United States, and an enemy or ally of an enemy the terms of which provide for the delivery, during or after any war in which a present enemy or ally of enemy nation has been or is now engaged, of anything produced, mined, or manufactured in the United States, may be abrogated by such citizen or corporation by serving thirty days' notice in writing upon the alien property custodian of his or its election to abrogate such contract.

(c) The running of any statute of limitations shall be suspended with reference to the rights or remedies on any contract or obligation entered into prior to the beginning of the war between parties neither of whom is an enemy or ally of enemy, and containing any promise to pay or liability for payment which is evidenced by drafts or other commercial paper drawn against or secured by funds or other property situated in an enemy or ally of enemy country, and no suit shall be maintained on any such contract or obligation in any court within the United States until after the end of the war, or until the said funds or property shall be released for the payment or satisfaction of such contract or obligation: *Provided, however*, That nothing herein contained shall be construed to prevent the suspension of the running of the statute of limitations in all other cases where such suspension would occur under existing law. (Oct. 6, 1917, ch. 106, § 8, 40 Stat. 418.)

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of the Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7, 9 to 39, 41 to 44 of this Appendix.

§ 9. Claims to property transferred to custodian; notice of claim; filing; return of property; suits to recover; sale of claimed property in time of war or during national emergency.

(a) Any person not an enemy or ally of enemy claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, or to whom any debt may be owing from an enemy or ally of enemy whose property or any part thereof shall have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States may file with the said custodian a notice of his claim under oath and in such form and containing such particulars as the said custodian shall require; and the President, if application is made therefor by the claimant, may order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest

therein to which the President shall determine said claimant is entitled: *Provided*, That no such order by the President shall bar any person from the prosecution of any suit at law or in equity against the claimant to establish any right, title, or interest which he may have in such money or other property. If the President shall not so order within sixty days after the filing of such application or if the claimant shall have filed the notice as above required and shall have made no application to the President, said claimant may institute a suit in equity in the United States District Court for the District of Columbia or in the district court of the United States for the district in which such claimant resides, or, if a corporation, where it has its principal place of business (to which suit the Alien Property Custodian or the Treasurer of the United States, as the case may be, shall be made a party defendant), to establish the interest, right, title, or debt so claimed, and if so established the court shall order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States or the interest therein to which the court shall determine said claimant is entitled. If suit shall be so instituted, then such money or property shall be retained in the custody of the Alien Property Custodian, or in the Treasury of the United States, as provided in this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], and until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignment, or delivery by the defendant, or by the Alien Property Custodian, or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated: *Provided further*, That upon a determination made by the President, in time of war or during any national emergency declared by the President, that the interest and welfare of the United States require the sale of any property or interest or any part thereof claimed in any suit filed under this subsection and pending on or after the date of enactment [Oct. 22, 1962] of this proviso the Alien Property Custodian or any successor officer, or agency may sell such property or interest or part thereof, in conformity with law applicable to sales of property by him, at any time prior to the entry of final judgment in such suit. No such sale shall be made until thirty days have passed after the publication of notice in the Federal Register of the intention to sell. The net proceeds of any such sale shall be deposited in a special account established in the Treasury, and shall be held in trust by the Secretary of the Treasury pending the entry of final judgment in such suit. Any recovery of any claimant in any such suit in respect of the property or interest or part thereof so sold shall be satisfied from the net proceeds of such sale unless such claimant, within sixty days after receipt of notice of the amount of net proceeds of sale serves upon the Alien Property Custodian, or any successor officer or agency, and files with the court an election to waive all claims to the net proceeds or any part thereof, and to claim just compensation instead. If the court finds that the claimant has established an interest, right, or title in any property in respect of which such an election has been served and filed, it shall proceed to determine the amount which will constitute just compensation for such interest, right, or title, and shall order payment to the claimant of the amount so determined. An

order for the payment of just compensation hereunder shall be a judgment against the United States and shall be payable first from the net proceeds of the sale in an amount not to exceed the amount the claimant would have received had he elected to accept his proportionate part of the net proceeds of the sale, and the balance, if any, shall be payable in the same manner as are judgments in cases arising under section 1346 of Title 28. The Alien Property Custodian or any successor officer or agency shall, immediately upon the entry of final judgment, notify the Secretary of the Treasury of the determination by final judgment of the claimant's interest and right to the proportionate part of the net proceeds from the sale, and the final determination by judgment of the amount of just compensation in the event the claimant has elected to recover just compensation for the interest in the property he claimed.

(b) In respect of all money or other property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, if the President shall determine that the owner thereof at the time such money or other property was required to be so conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or at the time when it was voluntarily delivered to him or was seized by him was—

(1) A citizen or subject of any nation or State or free city other than Germany or Austria or Hungary or Austria-Hungary, and is at the time of the return of such money or other property hereunder a citizen or subject of any such nation or State or free city; or

(2) A woman who, at the time of her marriage, was a subject or citizen of a nation which has remained neutral in the war, or of a nation which was associated with the United States in the prosecution of said war, and who, prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary and that the money or other property concerned was not acquired by such women, either directly or indirectly from any subject or citizen of Germany or Austria-Hungary subsequent to January 1, 1917; or

(3) A woman who at the time of her marriage was a citizen of the United States, and who prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary, and that the money or other property concerned, was not acquired by such woman, either directly or indirectly, from any subject or citizen of Germany or Austria-Hungary subsequent to January 1, 1917; or who was a daughter of a resident citizen of the United States and herself a resident or former resident thereof, or the minor daughter or daughters of such woman, she being deceased; or

(3A) An individual who was at such time a citizen or subject of Germany, Austria, Hungary, or Austria-Hungary, or not a citizen or subject of any nation, state or free city, and that the money or other property concerned was acquired by such individual while a bona fide resident of the United States, and that such individual, on January 1, 1926, and at the time of the return of the money or other property, shall be a bona fide resident of the United States; or

(3B) Any individual who at such time was not a subject or citizen of Germany, Austria, Hungary, or Austria-Hungary, and who is now a citizen or subject of a neutral or allied country: *Provided, however,* That nothing contained herein shall be construed as limiting or abrogating any existing rights of an individual under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; or

(4) A citizen or subject of Germany or Austria or Hungary or Austria-Hungary and was at the time of the severance of diplomatic relations between the United States and such nations, respectively, accredited to the United States as a diplomatic or consular officer of any such nation, or the wife or minor child of such officer, and that the money or other property concerned was within the territory of the United States by reason of the service of such officer in such capacity; or

(5) A citizen or subject of Germany or Austria-Hungary, who by virtue of the provisions of sections 4067, 4068, 4069, and 4070 of the Revised Statutes [sections 21 to 24 of this title] and of the proclamations and regulations thereunder, was transferred, after arrest, into the custody of the War Department of the United States for detention during the war and is at the time of the return of his money or other property hereunder living within the United States; or

(6) A partnership, association, or other unincorporated body of individuals outside the United States, or a corporation incorporated within any country other than the United States, and was entirely owned at such time by subjects or citizens of nations, States, or free cities other than Germany or Austria or Hungary or Austria-Hungary and is so owned at the time of the return of its money or other property hereunder; or

(7) The Government of Bulgaria or Turkey, or any political or municipal subdivision thereof; or

(8) The Government of Germany or Austria or Hungary or Austria-Hungary, and that the money or other property concerned was the diplomatic or consular property of such Government; or

(9) An individual who was at such time a citizen or subject of Germany, Austria, Hungary, or Austria-Hungary, or who is not a citizen or subject of any nation, State or free city, and that such money or other property, or the proceeds thereof, if the same has been converted, does not exceed in value the sum of \$10,000, or although exceeding in value the sum of \$10,000 is nevertheless susceptible of division, and the part thereof to be returned hereunder does not exceed in value the sum of \$10,000: *Provided,* That an individual shall not be entitled, under this paragraph, to the return of any money or other property owned by a partnership, association, unincorporated body of individuals, or corporation at the time it was conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or seized by him hereunder; or

(10) A partnership, association, other unincorporated body of individuals, or corporation, and that it is not otherwise entitled to the return of its money or other property, or any part thereof,

under this section and that such money or other property, or the proceeds thereof, if the same has been converted, does not exceed in value the sum of \$10,000, or although exceeding in value the sum of \$10,000, is nevertheless susceptible of division, and the part thereof to be returned hereunder does not exceed in value the sum of \$10,000; or

(11) A partnership, association, or other unincorporated body of individuals, having its principal place of business within any country other than Germany, Austria, Hungary or Austria-Hungary, or a corporation, organized or incorporated within any county other than Germany, Austria, Hungary, or Austria-Hungary, and that the control of, or more than 50 per centum of the interests or voting power in, any such partnership, association, other unincorporated body of individuals, or corporation, was at such time, and is at the time of the return of any money or other property, vested in citizens or subjects of nations, States or free cities other than Germany, Austria, Hungary, or Austria-Hungary: *Provided, however,* That this subsection shall not affect any rights which any citizen or subject may have under paragraph (1) of this subsection; or

(12) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by subjects or citizens of nations, States, or free cities other than Austria or Hungary or Austria-Hungary and is so owned at the time of the return of its money or other property, and has filed the written consent provided for in subsection (m) of this section; or

(13) A partnership, association or other unincorporated body of individuals, having its principal place of business at such time within any country other than Austria, Hungary, or Austria-Hungary, or a corporation organized or incorporated within any country other than Austria, Hungary, or Austria-Hungary, and that the written consent provided for in subsection (m) of this section has been filed; or

(14) An individual who at such time was a citizen or subject of Germany or who, at the time of the return of any money or other property, is a citizen or subject of Germany or is not a citizen or subject of any nation, State, or free city, and that the written consent provided for in subsection (m) of this section has been filed; or

(15) Repealed. Aug. 6, 1956. ch. 1016, § 3, 70 Stat. 1073.

(16) An individual, partnership, association, or other unincorporated body of individuals, or a corporation, and that the written consent provided for in subsection (m) of this section has been filed, and that no suit or proceeding against the United States or any agency thereof is pending in respect of such return, and that such individual has filed a written waiver renouncing on behalf of himself, his heirs, successors, and assigns any claim based upon the fact that at the time of such return he was in fact entitled to such return under any other provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; or

(17) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such

time by citizens of Austria and is so owned at the time of the return of its money or other property; or

(18) A partnership association, or other unincorporated body of individuals, having its principal place of business at such time within Austria, or a corporation organized or incorporated within Austria; or

(19) An individual who at such time was a citizen of Austria or who, at the time of the return of any money or other property, is a citizen of Austria; or

(20) A partnership, association, or other unincorporated body of individuals, or a corporation, and was entirely owned at such time by citizens of Hungary and is so owned at the time of the return of its money or other property; or

(21) A partnership, association, or other unincorporated body of individuals, having its principal place of business at such time within Hungary, or a corporation organized or incorporated within Hungary; or

(22) An individual who at such time was a citizen of Hungary or who, at the time of the return of any money or other property, is a citizen of Hungary;

Then the President, without any application being made therefor, may order the payment, conveyance, transfer, assignment, or delivery of such money or other property held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to which the President shall determine such person entitled, either to the said owner or to the person by whom said property was conveyed, transferred, assigned, delivered, or paid over to the Alien Property Custodian: *Provided*, That no person shall be deemed or held to be a citizen or subject of Germany or Austria or Hungary or Austria-Hungary for the purposes of this section, even though he was such citizen or subject at the time first specified in this subsection, if he has become or shall become, ipso facto or through exercise of option, a citizen or subject of any nation or State or free city other than Germany, Austria, or Hungary, (first) under the terms of such treaties of peace as have been or may be concluded subsequent to November 11, 1918, between Germany or Austria or Hungary (of the one part) and the United States and/or three or more of the following-named powers: The British Empire, France, Italy, and Japan (of the other part), or (second) under the term of such treaties as have been or may be concluded in pursuance of the treaties of peace aforesaid between any nation, State, or free city (of the one part) whose territories, in whole or in part, on August 4, 1914 formed a portion of the territory of Germany or Austria-Hungary and the United States and/or three or more of the following-named powers: The British Empire, France, Italy, and Japan (of the other part). For the purposes of this section any citizen or subject of a State or free city which at the time of the proposed return of money or other property of such citizen or subject hereunder forms a part of the territory of any one of the following nations: Germany, Austria, or Hungary, shall be deemed to be a citizen or subject of such nation. And the receipt of the said owner or of the person by whom said money or other property was conveyed, transferred, assigned, delivered, or paid over to the Alien

Property Custodian shall be a full acquittance and discharge of the Alien Property Custodian or the Treasurer of the United States, as the case may be, and of the United States in respect to all claims of all persons heretofore or hereafter claiming any right, title, or interest in said money or other property, or compensation or damages arising from the capture of such money or other property by the President or the Alien Property Custodian: *Provided further, however,* That except as herein provided no such action by the President shall bar any person from the prosecution of any suit at law or in equity to establish any right, title, or interest which he may have therein.

(c) Any person whose money or other property the President is authorized to return under the provisions of subsection (b) of this section may file notice of claim for the return of such money or other property, as provided in subsection (a) of this section, and thereafter may make application to the President for allowance of such claim and/or may institute suit in equity to recover such money or other property, as provided in said subsection, and with like effect. The President or the court, as the case may be, may make the same determinations with respect to citizenship and other relevant facts that the President is authorized to make under the provisions of subsection (b) of this section.

(d) Whenever an individual, deceased, would have been entitled, if living, to the return of any money or other property without filing the written consent provided for in subsection (m) of this section, then his legal representative may proceed for the return of such money or other property in the same manner as such individual might proceed if living, and such money or other property may be returned to such legal representative without requiring the appointment of an administrator, or an ancillary administrator, by a court in the United States, or to any such ancillary administrator, for distribution directly to the persons entitled thereto. Return in accordance with the provisions of this subsection may be made in any case where an application or court proceeding by any legal representative, under the provisions of this subsection before its amendment by the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch 167] is pending and undetermined at the time of the enactment of such Act. All bonds or other security given under the provisions of this subsection before such amendment shall be canceled or released and all sureties thereon discharged.

(e) No money or other property shall be returned nor any debt allowed under this section to any person who is a citizen or subject of any nation which was associated with the United States in the prosecution of the war, unless such nation in like case extends reciprocal rights to citizens of the United States: *Provided,* That any arrangement made by a foreign nation for the release of money and other property of American citizens and certified by the Secretary of State to the Attorney General as fair and the most advantageous arrangement obtainable shall be regarded as meeting this requirement; nor in any event shall a debt be allowed under this section unless it was owing to and owned by the claimant prior to October 6, 1917, and as to claimants other than citizens of the United States unless it arose with reference to the money or other property held by the Alien Property Custodian or Treasurer of the United States hereunder; nor shall a debt be allowed under this section unless notice of the claim has been

filed, or application therefor has been made, prior to the date of the enactment of the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167].

(f) Except as herein provided, the money or other property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, shall not be liable to lien, attachment, garnishment, trustee process, or execution, or subject to any order or decree of any court.

(g) Whenever an individual, deceased, would have been entitled, if living, to the return of any money or other property upon filing the written consent provided for in subsection (m) of this section, then his legal representative may proceed for the return of such money or other property in the same manner as such individual might proceed if living, and such money or other property may be returned, upon filing the written consent provided for in subsection (m) of this section, to such legal representative without requiring the appointment of an administrator, or an ancillary administrator, by a court in the United States, or to any such ancillary administrator, for distribution to the persons entitled thereto. This subsection shall not be construed as extinguishing or diminishing any right which any citizen of the United States may have had under this subsection prior to its amendment by the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167] to receive in full his interest in the property of any individual dying before such amendment.

(h) The aggregate value of the money or other property returned under paragraphs (9) and (10) of subsection (b) of this section to any one person, irrespective of the number of trusts involved, shall in no case exceed \$10,000.

(i) For the purposes of paragraphs (9) and (10) of subsection (b) of this section accumulated net income, dividends, interest, annuities, and other earnings, shall be considered as part of the principal.

(j) The Alien Property Custodian is authorized and directed to return to the person entitled thereto, whether or not an enemy or ally of enemy and regardless of the value, any patent, trade-mark, print, label, copyright, or right therein or claim thereto, which was conveyed, transferred, assigned, or delivered to the Alien Property Custodian, or seized by him, and which has not been sold, licensed, or otherwise disposed of under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], and to return any such patent, trade-mark, print, label, copyright, or right therein or claim thereto, which has been licensed, except that any patent, trade-mark, print, label, copyright, or right therein or claim thereto, which is returned by the Alien Property Custodian and which has been licensed, or in respect of which any contract has been entered into, or which is subject to any lien or encumbrance, shall be returned subject to the license, contract, lien, or encumbrance.

(k) Except as provided in section 27 [section 27 of this Appendix], paragraphs (12) to (22), both inclusive, of subsection (b) of this section shall apply to the proceeds received from the sale, license, or other disposition of any patent, trade-mark, print, label, copyright, or right therein or claim thereto, conveyed, transferred, assigned, or delivered to the Alien Property Custodian, or seized by him.

(l) This section shall apply to royalties paid to the Alien Property Custodian, in accordance with a judgment or decree in a suit brought

under subsection (f) of section 10 [section 10(f) of this Appendix]; but shall not apply to any other money paid to the Alien Property Custodian under section 10 [section 10 of this Appendix].

(m) No money or other property shall be returned under paragraphs (12), (13), (14), or (16) of subsection (b) of this section or under subsection (g) or (n) of this section or (to the extent therein provided) under subsection (p) of this section, unless the person entitled thereto files a written consent to a postponement of the return of an amount equal to 20 per centum of the aggregate value of such money or other property (at the time, as nearly as may be, of the return), as determined by the Alien Property Custodian, and the investment of such amount in accordance with the provisions of section 25 [section 25 of this Appendix]. Such amount shall be deducted from the money to be returned to such person, so far as possible, and the balance shall be deducted from the proceeds of the sale of so much of the property as may be necessary, unless such person pays the balance to the Alien Property Custodian, except that no property shall be so sold prior to the expiration of six years from the date of the enactment of the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167] without the consent of the person entitled thereto. The amounts so deducted shall be returned to the persons entitled thereto as provided in subsection (f) of section 25 [section 25 (f) of this Appendix]. The sale of any such property shall be made in accordance with the provisions of section 12 [section 12 of this Appendix], except that the provisions of such section relating to sales or resales to, or for the benefit of, citizens of the United States shall not be applicable. If such aggregate value of the money or other property to be returned under paragraphs (12), (13), (14), or (16) of subsection (b) of this section or under subsection (g) of this section is less than \$2,000, then the written consent shall not be required and the money or other property shall be returned in full without the temporary retention and investment of 20 per centum thereof.

(n) In the case of property consisting of stock or other interest in any corporation, association, company, or trust, or of bonded or other indebtedness thereof, evidenced by certificates of stock or by bonds or by other certificates of interest therein or indebtedness thereof, or consisting of dividends or interest or other accruals thereon, where the right, title, and interest in the property (but not the actual certificate or bond or other certificate of interest or indebtedness) was conveyed, transferred assigned, delivered, or paid to the Alien Property Custodian, or seized by him, if the President determines that the owner thereof or of any interest therein has acquired such ownership or of any interest therein has acquired such ownership by assignment, transfer, or sale of such certificate or bond or other certificate of interest or indebtedness, (it being the intent of this subsection that such assignment, transfer, or sale shall not be deemed invalid hereunder by reason of such conveyance, transfer, assignment, delivery, or payment to the Alien Property Custodian or seizure by him) and that the written consent provided for in subsection (m) of this section has been filed, then the President may make in respect of such property an order of the same character, upon the same conditions, and with the same effect, as in cases provided for in subsection (b) of this section, including the benefits of subsection (c) of this section.

(o) The provisions of paragraph (12) to (14), (17) to (21), or (22) of subsection (b) of this section, or of subsection (m) or (n) of this section, and (except to the extent therein provided) the provisions of paragraph (16) of subsection (b) of this section, shall not be construed as diminishing or extinguishing any right under any other provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] in force immediately prior to the enactment of the Settlement of War Claims Act of 1928 [Act March 10, 1928, ch. 167].

(p) The Alien Property Custodian shall transfer the money or other property in the trust of any partnership, association, or other unincorporated body of individuals, or corporation, the existence of which has terminated, to trusts in the names of the persons (including the German Government and members of the former ruling family) who have succeeded to its claim or interest; and the provisions of subsection (a) of this section relating to the collection of a debt (by order of the President or of a court) out of money or other property held by the Alien Property Custodian or the Treasurer of the United States shall be applicable to the debts of such successor and any such debt may be collected out of the money or other property in any of such trusts if not returnable under subsection (a) of this section. Subject to the above provisions as to the collection of debts, each such successor (except the German Government and members of the former ruling family) may proceed for the return of the amount so transferred to his trust, in the same manner as such partnership, association, or other unincorporated body of individuals, or corporation might proceed if still in existence. If such partnership, association, or other unincorporated body of individuals, or corporation, would have been entitled to the return of its money or other property only upon filing the written consent provided for in subsection (m) of this section, then the successor shall be entitled to the return under this subsection only upon filing such written consent.

(q) The return of money or other property under paragraphs (15), (17), (18), (19), (20), (21), or (22) of subsection (b) of this section (relating to the return of Austrian and Hungarian nationals) shall be subject to the limitations imposed by subsections (d) and (e) of section 7 of the Settlement of War Claims Act of 1928 [Act Mar. 10, 1928, ch. 167, 45 Stat. 265, 266]. (Oct. 6, 1917, ch. 106, § 9, 40 Stat. 419; July 11, 1919, ch. 6, § 1, 41 Stat. 35; June 5, 1920, ch. 241, 41 Stat. 977; Feb. 27, 1921, ch. 76, 41 Stat. 1147; Dec. 21, 1921, ch. 13, 42 Stat. 351; Dec. 27, 1922, ch. 13, 42 Stat. 1065; Mar. 4, 1923, ch. 285, § 1, 42 Stat. 1511; May 7, 1926, ch. 252, 44 Stat. 406; Mar. 10, 1928, ch. 167, §§ 11-14, 20, 45 Stat. 270-273, 277; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 745, 50 Stat. 748; June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 6, 1956, ch. 1016, § 3, 70 Stat. 1073; Oct. 22, 1962, Pub. L. 87-846, title II, § 203, 76 Stat. 1113.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011-3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-846 added provisions for sale of claimed property in time of war or during national emergency, publication of notice in Federal Register of intention to sell, deposit of net proceeds of sale in a special account in the Treasury, satisfaction of the claim from such net proceeds, election to waive claims to net proceeds and to claim just compensation, judicial determination of amount of compensation, order for payment, judgment against United States and notification of Secretary of the Treasury respecting the determination of election made.

1956—Subsec. (b) (15). Act Aug. 6, 1956, repealed subsec. (b) (15) which related to property of the Austro-Hungarian Bank.

1937—Subsec. (e). Act Aug. 24, 1937, added the proviso that arrangements by foreign nations certified by the Secretary of State would be regarded as meeting the reciprocity requirement for return of property.

1928—Subsection (b) (12)–(22). Act Mar. 10, 1928, ch. 167, § 11, added subsecs. (b) (12)–(22).

Subsections (1)–(q). Act Mar. 10, 1928, ch. 167, §§ 13 and 14, added subsecs. (1)–(q).

1926—Subsec. (b) (3a) and (3b). Act May 7, 1926, added subsec. (b) (3a) and (3b).

1923—Subsec. (b) (9)–(11). Act Mar. 4, 1923, added pars. (9)–(11) of subsec. (b), and subsecs. (g)–(j) and redesignated former subsec. (g) as subsec. (k).

1922—Subsec. (a). Act Dec. 27, 1922, increased the time limit for instituting a suit from eighteen to thirty months.

1921—Subsec. (a). Act Dec. 21, 1921 increased the time limit for instituting a suit from six to eighteen months.

Subsec. (b). Act Feb. 27, 1921, added to pars. (2) and (3) the requirement that money or property be acquired subsequent to Jan. 1, 1917, and eliminated from par. (3) the requirement that citizenship be by birth in the United States.

1920—Act June 5, 1920, added pars. (1) to (8) of subsec. (b) and added subsecs. (c)–(g), the latter two subsecs. having formerly been the last two paragraphs, respectively, of subsec. (b).

1919—Act July 11, 1919, eliminated the requirement of owner's assent to the transfer of property to the Custodian, gave the Supreme Court of the District of Columbia co-extensive jurisdiction with the District Courts over suits, and added a proviso permitting the Custodian to acquit his responsibility by transferring the property of persons, who were enemies by reason of residence in enemy occupied countries, to those persons or their designated representatives.

CHANGE OF NAME

Act of June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia" in subsec. (a).

Act June 25, 1936, substituted "district court of the United States for the District of Columbia" for "Supreme Court of the District of Columbia" in subsec. (a).

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

Act Mar. 10, 1928, popularly known as the Settlement of War Claims Act of 1928 provided for the settlement of certain claims of American nationals against Germany, Austria, and Hungary, and the nationals of Germany, Austria, and Hungary against the United States, and for the ultimate return of all property held by the Alien Property Custodian.

Sections 9 (c)—19 of the act were classified to sections 9, 10, 20, and 22—31 of this Appendix. Sections 1—9 (b) of the act were never classified.

The act has been amended to extend the time of presenting claims under it several times as follows: Acts Mar. 10, 1930, ch. 175, 46 Stat. 84; June 14, 1932, ch. 259, 47 Stat. 318; Mar. 3, 1933, ch. 210, 47 Stat. 1488; June 12, 1933, ch. 60, 48 Stat. 125; June 18, 1934, ch. 608, 48 Stat. 1019; June 27, 1934, ch. 851, 48 Stat. 1267;

June 26, 1933, ch. 852, 49 Stat. 1984; May 23, 1938, ch. 263, 52 Stat. 437. The act of May 23, 1938, was the final extension and it allowed the presentation of claims up to 12 years after Mar. 10, 1938.

Act. Aug. 6, 1947, ch. 506, 61 Stat. 789, amended section 4 (b), (c) of act Mar. 10, 1928, to change the order of priority for payment of claims out of the German special deposit account.

EFFECT OF TERMINATION OF STATE OF WAR BETWEEN UNITED STATES AND GERMANY

Termination of war by Joint Res. Oct. 19, 1951, ch. 519, 65 Stat. 451, as not affecting property already vested, see said Joint Res. Oct. 19, 1951, set out as a note preceding section 1 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

CROSS REFERENCES

Conspiracy to defraud United States, see section 371 of Title 18, Crimes and Criminal Procedure.

Payment of taxes and expenses by Alien Property Custodian, see section 23 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 8, 10 to 39, 41 to 44 of this Appendix.

§ 10. Acts permitted; applications for patents, or registration of trade-marks or copyrights; payment of tax in relation thereto; licenses under enemy owned patent or copyright; statements by licensees; term and cancellation; suits against licensees; restraining infringements; powers of attorney; keeping secret inventions.

Nothing contained in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] shall be held to make unlawful any of the following acts:

(a) Repealed. Aug. 8, 1946, ch. 910, § 13, 60 Stat. 944.

(b) Any citizen of the United States, or any corporation organized within the United States, may, when duly authorized by the President, pay to an enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally of enemy nation in relation to patents and trade-marks, prints, labels, and copyrights; and any such citizen or corporation may file and prosecute an application for letters patent or for registration of trade-mark, print, label, or copyright in the country of an enemy, or of an ally of enemy after first submitting such application to the President and receiving license so to file and prosecute, and to pay the fees required by law and customary agents' fees, the maximum amount of which in each case shall be subject to the control of the President.

(c) Any citizen of the United States or any corporation organized within the United States desiring to manufacture, or cause to be manufactured, a machine, manufacture, composition of matter, or design, or to carry on, or to use any trade-mark, print, label or cause to be carried on, a process under any patent or copyrighted matter owned or controlled by an enemy or ally of enemy at any time during the existence of a state of war may apply to the President for a license; and the President is authorized to grant such a license, nonexclusive or exclusive as he shall deem best, provided he shall be of the opinion

that such grant is for the public welfare, and that the applicant is able and intends in good faith to manufacture, or cause to be manufactured, the machine, manufacture, composition of matter, or design, or to carry on, or cause to be carried on, the process or to use the trade-mark, print, label or copyrighted matter. The President may prescribe the conditions of this license, including the fixing of prices of articles and products necessary to the health of the military and naval forces of the United States or the successful prosecution of the war, and the rules and regulations under which such license may be granted and the fee which shall be charged therefor, not exceeding \$100, and not exceeding one per centum of the fund deposited as hereinafter provided. Such license shall be a complete defense to any suit at law or in equity instituted by the enemy or ally of enemy owners of the letters patent, trade-mark, print, label or copyright, or otherwise, against the licensee for infringement or for damages, royalty, or other money award on account of anything done by the licensee under such license, except as provided in subsection (f) of this section.

(d) The licensee shall file with the President a full statement of the extent of the use and enjoyment of the license, and of the prices received in such form and at such stated periods (at least annually) as the President may prescribe; and the licensee shall pay at such times as may be required to the alien property custodian not to exceed five per centum of the gross sums received by the licensee from the sale of said inventions or use of the trade-mark, print, label or copyrighted matter, or, if the President shall so order, five per centum of the value of the use of such inventions, trade-marks, prints, labels or copyrighted matter to the licensee as established by the President; and sums so paid shall be deposited by said alien property custodian forthwith in the Treasury of the United States as a trust fund for the said licensee and for the owner of the said patent, trade-mark, print, label or copyright registration as hereinafter provided, to be paid from the Treasury upon order of the court, as provided in subsection (f) of this section, or upon the direction of the alien property custodian.

(e) Unless surrendered or terminated as provided in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], any license granted hereunder shall continue during the term fixed in the license or in the absence of any such limitation during the term of the patent, trade-mark, print, label, or copyright registration under which it is granted. Upon violation by the licensee of any of the provisions of this Act [said sections], or of the conditions of the license, the President may, after due notice and hearing, cancel any license granted by him.

(f) The owner of any patent, trade-mark, print, label, or copyright under which a license is granted hereunder may, after the end of the war and until the expiration of one year thereafter, file a bill in equity against the licensee in the district court of the United States for the district in which the said licensee resides, or, if a corporation, in which it has its principal place of business (to which suit the Treasurer of the United States shall be made a party), for recovery from the said licensee for all use and enjoyment of the said patented invention, trade-mark, print, label, or copyrighted matter: *Provided, however,* That whenever suit is brought, as above, notice shall be filed with the alien property custodian within thirty days after date of entry of suit: *Provided further,* That the licensee may make any and all defenses

which would be available were no license granted. The court on due proceedings had may adjudge and decree to the said owner payment of a reasonable royalty. The amount of said judgment and decree, when final, shall be paid on order of the court to the owner of the patent from the fund deposited by the licensee, so far as such deposit will satisfy said judgment and decree; and the said payment shall be in full or partial satisfaction of said judgment and decree, as the facts may appear; and if, after payment of all such judgments and decrees, there shall remain any balance of said deposit, such balance shall be repaid to the licensee on order of the alien property custodian. If no suit is brought within one year after the end of the war, or no notice is filed as above required, then the licensee shall not be liable to make any further deposits, and all funds deposited by him shall be repaid to him on order of the alien property custodian. Upon entry of suit and notice filed as above required, or upon repayment of funds as above provided, the liability of the licensee to make further reports to the President shall cease.

If suit is brought as above provided, the court may, at any time, terminate the license, and may, in such event, issue an injunction to restrain the licensee from infringement thereafter, or the court, in case the licensee, prior to suit, shall have made investment of capital based on possession of the license, may continue the license for such period and upon such terms and with such royalties as it shall find to be just and reasonable.

In the case of any such patent, trade-mark, print, label, or copyright, conveyed, assigned, transferred, or delivered to the Alien Property Custodian or seized by him, any suit brought under this subsection, within the time limited therein, shall be considered as having been brought by the owner within the meaning of this subsection, in so far as such suit relates to royalties for the period prior to the sale by the Alien Property Custodian of such patent, trade-mark, print, label, or copyright, if brought either by the Alien Property Custodian or by the person who was the owner thereof immediately prior to the date such patent, trade-mark, print, label, or copyright was seized or otherwise acquired by the Alien Property Custodian.

(g) Any enemy, or ally of enemy, may institute and prosecute suits in equity against any person other than a licensee under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] to enjoin infringement of letters patent, trade-mark, print, label, and copyrights in the United States owned or controlled by said enemy or ally of enemy, in the same manner and to the extent that he would be entitled so to do if the United States was not at war: *Provided*, That no final judgment or decree shall be entered in favor of such enemy or ally of enemy by any court except after thirty days' notice to the alien property custodian. Such notice shall be in writing and shall be served in the same manner as civil process of Federal courts.

(h) All powers of attorney heretofore or hereafter granted by an enemy or ally of enemy to any person within the United States, in so far as they may be requisite to the performance of acts authorized in subsections (a) and (g) of this section, shall be valid.

(i) Whenever the publication of an invention by the granting of a patent may, in the opinion of the President, be detrimental to the public safety or defense, or may assist the enemy or endanger the

successful prosecution of the war, he may order that the invention be kept secret and withhold the grant of a patent until the end of the war: *Provided*, That the invention disclosed in the application for said patent may be held abandoned upon it being established before or by the Commissioner of Patents that, in violation of said order, said invention has been published or that an application for a patent therefor has been filed in any other country, by the inventor or his assigns or legal representatives, without the consent or approval of the commissioner or under a license of the President.

When an applicant whose patent is withheld as herein provided and who faithfully obeys the order of the President above referred to shall tender his invention to the Government of the United States for its use, he shall, if he ultimately receives a patent, have the right to sue for compensation in the Court of Claims, such right to compensation to begin from the date of the use of the invention by the Government. (Oct. 6, 1917, ch. 106, § 10, 40 Stat. 420; Mar. 10, 1928, ch. 167, § 19, 45 Stat. 277; Aug. 8, 1946, ch. 910, § 13, 60 Stat. 944.)

AMENDMENTS

1946—Subsec. (a). Act Aug. 8, 1946, repealed subsec. (a).

1928—Subsec. (f). Act Mar. 10, 1928, added last par. of subsec. (f).

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SIMILAR PROVISIONS

The provisions of subsection (i) of this section are similar to the provisions of act Oct. 6, 1917, ch. 95, 40 Stat. 394 (formerly set out as section 42 of Title 35, Patents), which was repealed and superseded by act Feb. 1, 1952, ch. 4, 66 Stat. 3. Act Feb. 1, 1952 (also formerly set out as chapter 3 of Title 35) was also repealed by act July 19, 1952, ch. 950, § 5, 66 Stat. 815, and is now covered by chapter 17 of Title 35, Patents.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

PRESIDENT'S PROCLAMATION

Proclamation of May 24, 1917, 40 Stat. 1669, authorized citizens owning letters patent issued by the German Empire to pay any tax, annuity or fee required by the laws of the German Empire for preservation of their rights in the letters patent.

CROSS REFERENCES

Return by Custodian to United States of payments under licenses, assignments, or sales of patents, see section 27 of this Appendix.

Secrecy of certain inventions and filing applications in foreign country, see chapter 17 of Title 35, Patents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 9, 11 to 39, 41 to 44 of this Appendix.

§ 11. Imports prohibited.

Whenever during the present war the President shall find that the public safety so requires and shall make proclamation thereof it shall

be unlawful to import into the United States from any country named in such proclamation any article or articles mentioned in such proclamation except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: *Provided, however,* That no preference shall be given to the ports of one State over those of another. (Oct. 6, 1917, ch. 106, § 11, 40 Stat. 422.)

EXTENSION OF IMPORT LIMITATIONS

Joint Res. Nov. 19, 1919, ch. 121, 41 Stat. 361, continued provisions of section 1 et seq. of this Appendix and proclamations limiting imports to Jan. 15, 1920.

PRESIDENT'S PROCLAMATIONS

Proclamation of Nov. 28, 1917, 40 Stat. 1722, forbade the importation of various articles except under license granted by the War Trade Board.

Proclamation of Feb. 14, 1918, 40 Stat. 1748, added other articles to the list of articles upon which import limitations were placed.

CROSS REFERENCES

Power of Congress to regulate commerce, see Const. Art. 1, § 8, cl. 3.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 10, 12 to 39, 41 to 44 of this Appendix.

§ 12. Property transferred to Alien Property Custodian.

All moneys (including checks and drafts payable on demand) paid to or received by the alien property custodian pursuant to this Act [section 1 to 6, 7 to 39 and 41 to 44 of this Appendix] shall be deposited forthwith in the Treasury of the United States, and may be invested and reinvested by the Secretary of the Treasury in United States bonds or United States certificates of indebtedness, under such rules and regulations as the President shall prescribe for such deposit, investment, and sale of securities; and as soon after the end of the war as the President shall deem practicable, such securities shall be sold and the proceeds deposited in the Treasury.

All other property of an enemy, or ally of enemy, conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder shall be safely held and administered by him except as hereinafter provided: and the President is authorized to designate as a depository, or depositaries, of property of an enemy or ally of enemy, any bank, or banks, or trust company, or trust companies, or other suitable depository or depositaries, located and doing business in the United States. The alien property custodian may deposit with such designated depository or depositaries, or with the Secretary of the Treasury, any stocks, bonds, notes, time drafts, time bills of exchange, or other securities, or property (except money or checks or drafts payable on demand which are required to be deposited with the Secretary of the Treasury) and such depository or depositaries shall be authorized and empowered to collect any dividends or interest or income that may become due and any maturing obligations held for the account of such custodian. Any moneys collected on said account shall be paid and deposited forthwith by said depository or by the alien property custodian into the Treasury of the United States as hereinbefore provided.

The President shall require all such designated depositaries to execute and file bonds sufficient in judgment to protect property on deposit, such bonds to be conditioned as he may direct.

The alien property custodian shall be vested with all of the powers of a common-law trustee in respect of all property, other than money, which has been or shall be, or which has been or shall be required to be, conveyed, transferred, assigned, delivered, or paid over to him in pursuance of the provisions of this Act [said sections], and, in addition thereto, acting under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe, shall have power to manage such property and do any act or things in respect thereof or make any disposition thereof or of any part thereof, by sale or otherwise, and exercise any rights or powers which may be or become appurtenant thereto or to the ownership thereof in like manner as though he were the absolute owner thereof: *Provided*, That any property sold under this Act [said sections] except when sold to the United States, shall be sold only to American citizens, at public sale to the highest bidder, after public advertisement of time and place of sale which shall be where the property or a major portion thereof is situated, unless the President stating the reasons therefor, in the public interest shall otherwise determine: *Provided further*, That when sold at public sale, the alien property custodian upon the order of the President stating the reasons therefor, shall have the right to reject all bids and resell such property at public sale or otherwise as the President may direct. Any person purchasing property from alien property custodian for an undisclosed principal, or for re-sale to a person not a citizen of the United States, or for the benefit of a person not a citizen of the United States, shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of not more than \$10,000, or imprisonment for not more than ten years, or both, and the property shall be forfeited to the United States. It shall be the duty of every corporation incorporated within the United States and every unincorporated association, or company, or trustee, or trustees within the United States issuing shares or certificates representing beneficial interests to transfer such shares or certificates upon its, his, or their books into the name of the alien property custodian upon demand, accompanied by the presentation of the certificates which represent such shares or beneficial interests. The alien property custodian shall forthwith deposit in the Treasury of the United States, as hereinbefore provided, the proceeds of any such property or rights so sold by him.

Any money or property required or authorized by the provisions of this Act [said sections] to be paid, conveyed, transferred, assigned, or delivered to the alien property custodian shall, if said custodian shall so direct by written order, be paid, conveyed, transferred, assigned, or delivered to the Treasurer of the United States with the same effect as if to the alien property custodian.

After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the alien property custodian or deposited in the United States Treasury, shall be settled as Congress shall direct: *Provided, however*, That on order of the President as set forth in section nine hereof [section 9 of this Appendix], or of the court, as set forth in sections nine and ten hereof

[sections 9 and 10 of this Appendix], the alien property custodian or the Treasurer of the United States, as the case may be, shall forthwith convey, transfer, assign, and pay to the person to whom the President shall so order, or in whose behalf the court shall enter final judgment or decree, any property of an enemy or ally of enemy held by said custodian or by said Treasurer, so far as may be necessary to comply with said order of the President or said final judgment or decree of the court: *And provided further*, That the Treasurer of the United States, on order of the alien property custodian shall, as provided in section ten hereof [section 10 of this Appendix], repay to the licensee any funds deposited by said licensee. (Oct. 6, 1917, ch. 106, § 12, 40 Stat. 423; Mar. 28, 1918, ch. 28, § 1, 40 Stat. 460.)

AMENDMENTS

1918—Act Mar. 28, 1918, required that property sold be sold at public sale to American citizens, gave the Custodian the right to reject bids, and made violations of sale regulations subject to fine or imprisonment as misdemeanors.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

TRANSFER OF PRESIDENT'S AUTHORITY

Ex. Ord. No. 6237—A, July 30, 1933, provided:

"I hereby vest in the Alien Property Custodian, and in the event of his death, resignation, absence, or disability, in the General Counsel, and in the event of his death, resignation, absence, or disability during his period of authority, then in the Director of Finance and Accounts of the Office of the Alien Property Custodian, all power and authority conferred upon me by the provisions of the act approved October 6, 1917, known as the "Trading With the Enemy Act," as amended [sections 1—6, 7—39 and 41—44 of this Appendix] pertaining to the deposit, transfer, and payment of moneys, and interest which may have accrued thereon, which may be or have been deposited with the Treasurer of the United States, and to release and deliver property held under and by virtue of said acts: *Provided, however*, That all claims which are required to be submitted to the Attorney General and to the President, as provided in Executive Order No. 4862 of April 23, 1928, shall continue to be submitted to the Attorney General and to the President. Any order of payment of money, and interest, which may be executed by said officials shall constitute a ratification of all previous orders or acts, by virtue of which the funds in the possession of the Treasurer of the United States have been placed to the credit of the particular trusts on which such orders are drawn. I hereby revoke all former orders in conflict herewith."

Ex. Ord. No. 7894, 3 F.R. 998, May 23, 1938, authorized and directed "the Attorney General of the United States to exercise all power and authority conferred upon the President by section 12 of the said [Trading with the Enemy] act, as amended [section 12 of this Appendix]."

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

CROSS REFERENCES

Accumulated interest and profits; "unallocated interest fund", see section 28 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 11, 13 to 39, 41 to 44 of this Appendix.

§ 13. Statements by masters of vessels and owners of cargoes before granting clearances.

During the present war, in addition to the facts required by sections forty-one hundred and ninety-seven, forty-one hundred and ninety-eight, and forty-two hundred of the Revised Statutes, as amended by the Act of June fifteenth, nineteen hundred and seventeen [sections 71 and 94 of Title 46] to be set out in the master's and shipper's manifests before clearance will be issued to vessels bound to foreign ports, the master or person in charge of any vessel, before departure of such vessel from port, shall deliver to the collector of customs of the district wherein such vessel is located a statement duly verified by oath that the cargo is not shipped or to be delivered in violation of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], and the owners, shippers, or consignors of the cargo of such vessels shall in like manner deliver to the collector like statement under oath as to the cargo or the parts thereof laden or shipped by them, respectively, which statement shall contain also the names and addresses of the actual consignees of the cargo, or if the shipment is made to a bank or other broker, factor, or agent, the names and addresses of the persons who are the actual consignees on whose account the shipment is made. The master or person in control of the vessel shall, on reaching port of destination of any of the cargo, deliver a copy of the manifest and of the said master's, owner's, shipper's, or consignor's statement to the American consular officer of the district in which the cargo is unladen. (Oct. 6, 1917, ch. 106, § 13, 40 Stat. 424.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The collector of customs, referred to in this section, is an official of the Treasury Department.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 12, 14 to 39, 41 to 44 of this Appendix.

§ 14. Same; refusal of clearance; reports of gold or silver coin in cargoes for exports.

During the present war, whenever there is reasonable cause to believe that the manifest or the additional statements under oath required by the preceding section [section 13 of the Appendix] are false or that any vessel, domestic or foreign, is about to carry out of the United States any property to or for the account or benefit of an

enemy, or ally of enemy, or any property or person whose export, taking out, or transport will be in violation of law, the collector of customs for the district in which such vessel is located is authorized and empowered subject to review by the President to refuse clearance to any such vessel, domestic or foreign, for which clearance is required by law, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, to forbid the departure of such vessel from the port, and it shall thereupon be unlawful for such vessel to depart.

The collector of customs shall, during the present war, in each case report to the President the amount of gold or silver coin or bullion or other moneys of the United States contained in any cargo intended for export. Such report shall include the names and addresses of the consignors and consignees, together with any facts known to the collector with reference to such shipment and particularly those which may indicate that such gold or silver coin or bullion or moneys of the United States may be intended for delivery or may be delivered, directly or indirectly, to an enemy or an ally of enemy. (Oct. 6, 1917, ch. 106, § 14, 40 Stat. 424.)

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of the Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of the officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The collector of customs, referred to in this section, is an official of the Treasury Department.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 13, 15 to 39, 41 to 44 of this Appendix.

§ 15. Appropriation.

CODIFICATION

Section, act Oct. 6, 1917, ch. 106, § 15, 40 Stat. 425, made an appropriation of \$450,000 for the purpose of carrying out the Act during the fiscal year ending June 30, 1918, and is omitted as executed.

§ 16. Offenses; punishment; forfeitures of property.

Whoever shall willfully violate any of the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] or of any license, rule or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this Act [said sections] shall, upon conviction, be fined not more than \$10,000, or, if a

natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States. (Oct. 6, 1917, ch. 106, § 16, 40 Stat. 425.)

EMERGENCY PLANS FOR ALIEN PROPERTY

Attorney General to develop emergency plans for seizure and administration of alien property, see section 2(f) of Ex. Ord. No. 11310, Oct. 11, 1966, 31 F.R. 13199, set out as a note under section 509 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 15, 17 to 39, 41 to 44 of this Appendix.

§ 17. Rules by district courts; appeals.

The district courts of the United States are given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] with a right of appeal from the final order or decree of such court as provided in sections one hundred and twenty-eight and two hundred and thirty-eight of the Act of March third, nineteen hundred and eleven, entitled "An Act to codify, revise, and amend the laws relating to the judiciary." (Oct. 6, 1917, ch. 106, § 17, 40 Stat. 425.)

REFERENCES IN TEXT

Act Mar. 3, 1911, ch. 231, §§ 128, 238, referred to in the text, was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948. Section 128 of the act is now covered by sections 1291, 1292 and 1293 of Title 28, Judiciary and Judicial Procedure and section 238 is now covered by sections 1252 and 1253 of Title 28.

CROSS REFERENCES

Waiver of demand or enforcement thereof and acceptance of compromise settlement, see section 29 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 16, 18 to 39, 41 to 44 of this Appendix.

§ 18. Jurisdiction of courts of Philippines and Canal Zone of offenses.

The several courts of first instance in the Philippine Islands and the district court of the Canal Zone shall have jurisdiction of offenses under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] committed within their respective districts, and concurrent jurisdiction with the district courts of the United States of offenses under this Act [said sections] committed upon the high seas and of conspiracies to commit such offenses as defined by section thirty-seven of the Act entitled "An Act to codify, revise, and amend the penal laws of the United States," approved March fourth, nineteen hundred and nine, and the provisions of such section for the purpose of this Act [said sections] are extended to the Philippine Islands and to the Canal Zone. (Oct. 6, 1917, ch. 106, § 18, 40 Stat. 425.)

REFERENCES IN TEXT

Act Mar. 4, 1909, ch. 321, § 37, 35 Stat. 1096, referred to in the text, was repealed by act June 25, 1948 ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 371 of Title 18, Crimes and Criminal Procedure.

PHILIPPINE INDEPENDENCE

Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, recognized the independence of the Philippine Islands as of July 4, 1946, and is set out as a note under that section.

CROSS REFERENCES

Jurisdiction of courts of Philippine Islands continued, see section 1382 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 17, 19 to 39, 41 to 44 of this Appendix.

§ 19. Print, newspaper or publication in foreign languages.

Ten days after the approval of this act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and until the end of the war, it shall be unlawful for any person, firm, corporation, or association, to print, publish, or circulate, or cause to be printed, published, or circulated in any foreign language, any news item, editorial or other printed matter, respecting the Government of the United States, or of any nation engaged in the present war, its policies, international relations, the state or conduct of the war, or any matter relating thereto: *Provided*, That this section shall not apply to any print, newspaper, or publication where the publisher or distributor thereof, on or before offering the same for mailing, or in any manner distributing it to the public, has filed with the postmaster at the place of publication, in the form of an affidavit, a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper, or publication, and has caused to be printed, in plain type in the English language, at the head of each such item, editorial, or other matter, on each copy of such print, newspaper, or publication, the words "True translation filed with the postmaster at _____ on _____ (naming the post office where the translation was filed, and the date of filing thereof), as required by the Act of _____ (here giving the date of this Act [said sections])."

Any print, newspaper, or publication in any foreign language which does not conform to the provisions of this section is declared to be nonmailable, and it shall be unlawful for any person, firm, corporation, or association, to transport, carry, or otherwise publish or distribute the same, or to transport, carry out otherwise publish or distribute any matter which is made nonmailable by the provisions of the Act relating to espionage, approved June fifteenth, nineteen hundred and seventeen: *Provided, further*, That upon evidence satisfactory to him that any print, newspaper, or publication, printed in a foreign language may be printed, published, and distributed free from the foregoing restrictions and conditions without detriment to the United States in the conduct of the present war, the President may cause to be issued to the printers or publishers of such print, newspaper, or publication, a permit to print, publish, and circulate the issue or issues of their print, newspaper, or publication, free from such restrictions

and requirements, such permits to be subject to revocation at his discretion. And the Postmaster General shall cause copies of all such permits and revocations of permits to be furnished to the postmaster of the post office serving the place from which the print, newspaper, or publication, granted the permit is to emanate. All matter printed, published and distributed under permits shall bear at the head thereof in plain type in the English language, the words, "Published and distributed under permit authorized by the Act of ——— (here giving date of this Act [said sections]), on file at the post office of ——— (giving name of office)."

Any person who shall make an affidavit containing any false statement in connection with the translation provided for in this section shall be guilty of the crime of perjury and subject to the punishment provided therefor by section one hundred and twenty-five of the Act of March fourth, nineteen hundred and nine, entitled "An Act to codify, revise, and amend the penal laws of the United States," and any person, firm, corporation, or association, violating any other requirement of this section shall, on conviction thereof, be punished by a fine of not more than \$500, or by imprisonment of not more than one year, or in the discretion of the court, may be both fined and punished. (Oct. 6, 1917, ch. 106, § 19, 40 Stat. 425.)

REFERENCES IN TEXT

Act June 15, 1917, ch. 30, §§ 1—8, 40 Stat. 217, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and these provisions relating to espionage are now covered by sections 792—794 and 2388 of Title 18, Crimes and Criminal Procedure.

Act Mar. 4, 1909, ch. 321, § 125, 35 Stat. 1111, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 1621 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 18, 20 to 39, 41 to 44 of this Appendix.

§ 20. Fees of agents, attorneys, or representatives.

No property or interest or proceeds shall be returned under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], nor shall any payment be made or judgment awarded in respect of any property or interest vested in or transferred to any officer or agency of the United States under this Act [said sections] unless satisfactory evidence is furnished to the President or such officer or agency as he may designate, or the court, as the case may be, that the aggregate of the fees to be paid to all agents, attorneys at law or in fact, or representatives, for services rendered in connection with such return or payment or judgment does not exceed 10 per centum of the value of such property or interest or proceeds or of such payment. Any agent, attorney at law or in fact, or representative, believing that the aggregate of the fees should be in excess of such 10 per centum may in the case of any return of, or the making of any payment in respect of, such property or interest or proceeds by the President or such officer or agency as he may designate, petition the district court of the United States for the district in which he resides for an order authorizing fees in excess of 10 per centum and shall name such officer or agency as respondent. The court hearing such petition, or a court awarding any

judgment in respect of any such property or interest or proceeds, as the case may be, shall approve an aggregate of fees in excess of 10 per centum of the value of such property or interest or proceeds only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess. Any person accepting any fee in excess of an amount approved hereunder, or retaining for more than thirty days any portion of a fee, accepted prior to approval hereunder, in excess of the fee as approved, shall be guilty of a violation of this Act [said sections]. (Oct. 6, 1917, ch. 106, § 20, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1515, and amended Mar. 10, 1928, ch. 67, § 9(c), 45 Stat. 267; Mar. 8, 1946, ch. 83, § 2, 60 Stat. 54; June 25, 1956, ch. 436, 70 Stat. 331.)

AMENDMENTS

1956—Act June 25, 1956, eliminated provisions which required a schedule of fees to be furnished to, and approved by, the President or such officer or agency as he designated, and which permitted approval of such schedule of fees only upon a determination that the individual fees did not exceed fair compensation for services rendered.

1946—Act Mar. 8, 1946, raised the limitation of fees from 3 per centum of amount involved to 10 per centum.

1928—Act Mar. 10, 1928 added the words, "at law or in fact" following the word, "attorney" wherever it appears in this section.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

CROSS REFERENCES

Docket fees and costs of briefs, see section 1923 of Title 28, Judiciary and Judicial Procedure.

EX. ORD. NO. 9725. ADMINISTRATION OF POWERS AND AUTHORITY OF PRESIDENT BY ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 9725, May 16, 1946, 11 F.R. 5381, provided.

The Alien Property Custodian is designated as the officer to administer the powers and authority conferred upon the President by section 20 of the Trading with the Enemy Act, as amended by Public Law 322, 79th Congress, approved March 8, 1946 [this section], and by section 32 of the said act, as added by the said Public Law 322 [section 32 of this Appendix].

The Alien Property Custodian may delegate to officers and employees of the Office of Alien Property Custodian such functions as he may deem necessary to carry out the provisions of this order.

This order shall not be construed as revoking or limiting any power or authority heretofore delegated to the Alien Property Custodian.

HARRY S. TRUMAN.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 19, 21 to 39, 41 to 44 of this Appendix.

§ 21. Claims of naturalized citizens as affected by expatriation.

The claim of any naturalized American citizen under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] shall not be denied on the ground of any presumption of expatriation which has arisen against him, under the second sentence of section 2 of the Act entitled "An Act in reference to the expatriation of citizens and their protection abroad," approved March 2, 1907, if he shall give

satisfactory evidence to the President, or the court, as the case may be, of his uninterrupted loyalty to the United States during his absence, and that he has returned to the United States, or that he, although desiring to return, has been prevented from so returning by circumstances beyond his control. (Oct. 6, 1917, ch. 106, § 21, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516.)

REFERENCES IN TEXT

"Second sentence of section 2 of the Act entitled 'An Act in reference to the expatriation of citizens and their protection abroad,' approved March 2, 1907," referred to in the text (and formerly classified to sections 16 and 17 of Title 8, Aliens and Nationality), was repealed and superseded by act Oct. 14, 1940, ch. 876, title I, subchap. IV, §§ 401, 402, 404, subchap. § 504, 54 Stat. 1168-1170, 1172. Sections 401, 402 and 404 of act Oct. 14, 1940 as amended (also formerly classified to sections 801, 802 and 804 of said Title 8), were repealed by act June 27, 1952, ch. 477, title IV, § 403(a) (42), 66 Stat. 280, and are now covered by subchapter III of chapter 12 of Title 8.

SECTION REFERRED TO IN OTHER SECTIONS

This section referred to in sections 1 to 6, 7 to 20, 22 to 39, 41 to 44 of this Appendix.

§ 22. Fugitives from justice barred from recovery.

No person shall be entitled to the return of any property or money under any provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], or any amendment of this Act [said sections], who is a fugitive from justice of the United States or any State or Territory thereof, or the District of Columbia. (Oct 6, 1917, ch. 106, § 22, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516, and amended Mar. 10, 1928, ch. 167, § 16, 45 Stat. 275.)

AMENDMENTS

1928—Act Mar. 10, 1928, amended the section by adding the words "or any amendment of this Act" following the words "any provision of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 21, 23 to 39, 41 to 44 of this Appendix.

§ 23. Payment of income, etc., by Alien Property Custodian.

The Alien Property Custodian is directed to pay to the person entitled thereto, from and after March 4, 1923, the net income (including dividends, interest, annuities, and other earnings), accruing and collected thereafter, in respect of any money or property held in trust for such person by the Alien Property Custodian or by the Treasurer of the United States for the account of the Alien Property Custodian, under such rules and regulations as the President may prescribe. (Oct. 6, 1917, ch. 106, § 23, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516, and amended Mar. 10, 1928, ch. 167, § 17, 45 Stat. 275.)

AMENDMENTS

1928—Act Mar. 10, 1928, eliminated the restriction that no person be paid any amount over \$10,000 per annum.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 22, 24 to 39, 41 to 44 of this Appendix.

§ 24. Payment of taxes and expenses by Alien Property Custodian.

(a) The Alien Property Custodian is authorized to pay all taxes (including special assessments), heretofore or hereafter lawfully assessed by any body politic against any money or other property held by him or by the Treasurer of the United States under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], and to pay the necessary expenses incurred by him or by any depositary for him in securing the possession, collection, or control of any such money or other property, or in protecting or administering the same. Such taxes and expenses shall be paid out of the money or other property against which such taxes are assessed or in respect of which such expenses are incurred, or (if such money or other property is insufficient) out of any other money or property held for the same person, notwithstanding the fact that a claim may have been filed or suit instituted under this Act [said sections]. No claim shall be filed with the Alien Property Custodian or allowed by him or by the President of the United States, nor shall any suit be instituted or maintained against the Alien Property Custodian or the Treasurer of the United States, or the United States, under any provisions of law, by any person who was an enemy or ally of enemy as defined in the Trading with the Enemy Act, as amended [said sections], and no allowance of any such claim now pending shall be made, nor judgment entered in any such suit heretofore or hereafter instituted, for the recovery of any deduction or deductions, heretofore or hereafter made by the Alien Property Custodian from money or properties, or income therefrom, held by him or by the Treasurer of the United States hereunder, for the general or administrative expenses of the office of the Alien Property Custodian, which deduction or deductions on the collection of any income do not exceed the sum of two per centum of such income or which on the return of any moneys or properties or income therefrom, do not exceed the sum of two per centum of the aggregate value thereof at the time or times as nearly as may be, of such deduction or deductions, or, for the recovery of any deduction or deductions heretofore or hereafter made by the Alien Property Custodian from money or properties or income therefrom held by him or by the Treasurer of the United States hereunder, for any and all necessary expenses incurred and actually disbursed by the Alien Property Custodian or by any depositary for him in securing the possession, collection or control of any such money or properties or income therefrom, or in protecting or administering the same, as said general or administrative and other expenses and said aggregate value of returned money or properties or income therefrom have been heretofore or shall be hereafter determined by said Alien Property Custodian.

(b) In the case of income, war-profits, excess-profits, or estate taxes imposed by any Act of Congress, the amount thereof shall, under regulations prescribed by the Commissioner of Internal Revenue with

the approval of the Secretary of the Treasury, be computed in the same manner (except as hereinafter in this section provided) as though the money or other property had not been seized by or paid to the Alien Property Custodian, and shall be paid as far as practicable, in accordance with subsection (a) of this section. Pending final determination of the tax liability the Alien Property Custodian is authorized to return, in accordance with the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], money or other property in any trust in such amounts as may be determined, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, to be consistent with the prompt payment of the full amount of the internal-revenue taxes. Notwithstanding the expiration of any period of limitation provided by law, credit or refund of any income, war-profits, or excess-profits tax erroneously or illegally assessed or collected may be made or allowed if claim therefor was filed with the Commissioner of Internal Revenue by the Alien Property Custodian on or before February 15, 1933.

(c) So much of the next income of a taxpayer for the taxable year 1917, or any succeeding taxable year, as represents the gain derived from the sale or exchange by the Alien Property Custodian of any property conveyed, transferred, assigned, delivered, or paid to him, or seized by him, may at the option of the taxpayer be segregated from the net income and separately taxed at the rate of 30 per centum. This subsection shall be applied and the amount of net income to be so segregated shall be determined, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, as nearly as may be in the same manner as provided in section 208 of the Revenue Act of 1926 (relating to capital net gains), but without regard to the period for which the property was held by the Alien Property Custodian before its sale or exchange, and whether or not the taxpayer is an individual.

(d) Any property sold or exchanged by the Alien Property Custodian (whether before or after the date of the enactment of the Settlement of War Claims Act of 1928) shall be considered as having been compulsorily or involuntarily converted, within the meaning of the income, excess-profits, and war-profits tax laws and regulations; and the provisions of such laws and regulations relating to such a conversion shall (under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury) apply in the case of the proceeds of such sale or exchange. For the purpose of determining whether the proceeds of such conversion have been expended within such time as will entitle the taxpayer to the benefits of such laws and regulations relating to such a conversion, the date of the return of the proceeds to the person entitled thereto shall be considered as the date of the conversion.

(e) In case of any internal-revenue tax imposed in respect of property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or seized by him, and imposed in respect of any period (in the taxable year 1917 or any succeeding taxable year) during which such property was held by him or by the Treasurer of the United States, no interest or civil penalty shall be assessed upon, collected from, or paid by or on behalf of, the taxpayer; nor shall any

interest be credited or paid to the taxpayer in respect of any credit or refund allowed or made in respect of such tax.

(f) The benefits of subsections (c)—(e) of this section shall be extended to the taxpayer if claim therefor is filed before the expiration of the period of limitations properly applicable thereto, or before the expiration of six months after the date of the enactment of the Settlement of War Claims Act of 1928, whichever date is the later. The benefits of subsection (d) of this section shall also be extended to the taxpayer if claim therefor is filed before the expiration of six months after the return of the proceeds. (Oct. 6, 1917, ch. 106, § 24, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516, and amended Mar. 10, 1928, ch. 167, § 18, 45 Stat. 276, 277; Mar. 28, 1934, ch. 102, title I, § 1, 48 Stat. 510; June 18, 1934, ch. 567, 48 Stat. 978.)

REFERENCES IN TEXT

Revenue Act Feb. 26, 1926, ch. 27, § 208, referred to in subsection (c), has been substantially reenacted as section 117 of Title 26, Internal Revenue Code 1939 and subchapter P of chapter 1 of Title 26, Internal Revenue Code 1954.

AMENDMENTS

1934—Subsec. (a). Act Mar. 28, 1934, added the provisions relating to recovery by enemies of deductions made by the Alien Property Custodian for administrative expenses.

Subsec. (b). Act June 18, 1934, provided that credit or refund of income or war profits erroneously collected might be allowed if the claim was filed on or before Feb. 15, 1933.

1928—Subsecs. (b)—(f). Act Mar. 10, 1928, added subsecs. (b)—(f).

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SIMILAR PROVISIONS

A provision similar to subdivision (a) of this section was contained in the sundry civil appropriation act for the fiscal year 1919, act July 1, 1918, ch. 113, § 1, 40 Stat. 646.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

For act Mar. 10, 1928, referred to in the text, providing for the settlement of certain claims, see note under section 9 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment of Office of Alien Property Custodian during World War II, see note under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 23, 25 to 39, 41 to 44 of this Appendix.

§ 25. Investments by Custodian in participating certificates issued by Secretary of Treasury; transfers to and payments from German, Austrian or Hungarian special deposit accounts; allocation of payments.

(a) (1) The Alien Property Custodian is authorized and directed to invest, from time to time upon the request of the Secretary of the Treasury, out of the funds held by the Alien Property Custodian or by the Treasurer of the United States for the Alien Property Custodian,

an amount not to exceed \$40,000,000 in the aggregate, in one or more participating certificates issued by the Secretary of the Treasury in accordance with the provisions of this section.

(2) When in the case of any trust written consent under subsection (m) of section 9 [section 9(m) of this Appendix] has been filed, an amount equal to the portion of such trust the return of which is temporarily postponed under such subsection shall be credited against the investment made under paragraph (1) of this subsection. If the total amount so credited is in excess of the amount invested under paragraph (1) of this subsection, the excess shall be invested by the Alien Property Custodian in accordance with the provisions of this subsection, without regard to the \$40,000,000 limitation in paragraph (1) of this subsection. If the amount invested under paragraph (1) of this subsection is in excess of the total amount so credited, such excess shall, from time to time on request of the Alien Property Custodian, be paid to him out of the funds in the German special deposit account created by section 4 of the Settlement of War Claims Act of 1928, and such payments shall have priority over any payments therefrom other than the payments under paragraph (1) of subsection (c) of such section (relating to expenses of administration).

(b) The Alien Property Custodian is authorized and directed to invest, in one or more participating certificates issued by the Secretary of the Treasury, out of the unallocated interest fund, as defined in section 28 [section 28 of this Appendix]—

(1) The sum of \$25,000,000. If, after the allocation under section 26 [section 26 of this Appendix] has been made, the amount of the unallocated interest fund allocated to the trust described in subsection (c) of such section is found to be in excess of \$25,000,000, such excess shall be invested by the Alien Property Custodian in accordance with the provisions of this subsection. If the amount so allocated is found to be less than \$25,000,000 any participating certificate or certificates that have been issued shall be corrected accordingly; and

(2) The balance of such unallocated interest fund remaining after the investment provided for in paragraph (1) [of this subsection] and the payment of allocated earnings in accordance with the provisions of subsection (b) of section 26 [section 26(b) of this Appendix] have been made.

(c) If the amount of such unallocated interest fund, remaining after the investment required by paragraph (1) of subsection (b) of this section has been made, is insufficient to pay the allocated earnings in accordance with subsection (b) of section 26 [section 26(b) of this Appendix], then the amount necessary to make up the deficiency shall be paid out of the funds in the German special deposit account created by section 4 of the Settlement of War Claims Act of 1928, and such payment shall have priority over any payments therefrom other than the payments under paragraph (1) of subsection (c) of such section (relating to expenses of administration) and the payments under paragraph (2) of subsection (a) of this section.

(d) The Alien Property Custodian is authorized and directed (after the payment of debts under section 9 [section 9 of this Appen-

dix]) to transfer to the Secretary of the Treasury, for deposit in such special deposit account all money and the proceeds of all property, including all income, dividends, interest, annuities, and earnings accumulated in respect thereof owned by the German Government or any member of the former ruling family. All money and other property shall be held to be owned by the German Government (1) if no claim thereto has been filed with the Alien Property Custodian prior to the expiration of three years from the date of the enactment of the Settlement of War Claims Act of 1928, or (2) if any claim has been filed before the expiration of such period (whether before or after the enactment of such Act), then if the ownership thereof under any such claim is not established by a decision of the Alien Property Custodian or by suit in court instituted, under section 9 [section 9 of this Appendix], within one year after the decision of the Alien Property Custodian, or after the date of the enactment of the Settlement of War Claims Act of 1928, whichever date is later. The amounts so transferred under this subsection shall be credited upon the final payment due the United States from the German Government on account of the awards of the Mixed Claims Commission.

(c) The Secretary of the Treasury is authorized and directed to issue to the Alien Property Custodian, upon such terms and conditions and under such regulations as the Secretary of the Treasury may prescribe, one or more participating certificates, bearing interest payable annually (as nearly as may be) at the rate of 5 per centum per annum, as evidence of the investment by the Alien Property Custodian under subsection (a) of this section, and one or more non-interest bearing participating certificates, as evidence of the investment by the Alien Property Custodian under subsection (b) of this section. All such certificates shall evidence a participating interest, in accordance with, and subject to the priorities of, the provisions of section 4 of the Settlement of War Claims Act of 1928, in the funds in the German special deposit account created by such section, except that—

(1) The United States shall assume no liability, directly or indirectly, for the payment of any such certificates, or of the interest thereon, except out of funds in such special deposit account available therefor, and all such certificates shall so state on their face; and

(2) Such certificates shall not be transferable, except that the Alien Property Custodian may transfer any such participating certificate evidencing the interest of a substantial number of the owners of the money invested, to a trustee duly appointed by such owners.

(f) Any amount of principal or interest paid to the Alien Property Custodian in accordance with the provisions of subsection (c) of section 4 of the Settlement of War Claims Act of 1928 shall be allocated pro rata among the persons filing written consents under subsection (m) of section 9 of this Act [section 9(m) of this Appendix], and the amounts so allocated shall be paid to such persons. If any person to whom any amount is payable under this subsection has died (or if, in the case of a partnership, association, or other unincorporated body of individuals, or a corporation, its existence has terminated), pay-

ment shall be made to the persons determined by the Alien Property Custodian to be entitled thereto.

(g) The Alien Property Custodian is authorized and directed (after the payment of debts under section 9 [section 9 of this Appendix]) to transfer to the Secretary of the Treasury, for deposit in the special deposit account (Austrian or Hungarian, as the case may be), created by section 7 of the Settlement of War Claims Act of 1928, all money and the proceeds of all property, including all income, dividends, interest, annuities, and earnings accumulated in respect thereof, owned by the Austrian Government or any corporation all the stock of which was owned by or on behalf of the Austrian Government (including the property of the Imperial Royal Tobacco Monopoly, also known under the name of K. K. Oesterreichische Tabak Regie), or owned by the Hungarian Government or by any corporation all the stock of which was owned by or on behalf of the Hungarian Government. (Oct. 6, 1917, ch. 106, § 25, as added Mar. 10, 1928, ch. 167, § 10, 1930, ch. 75, § 2, amended Feb. 21, 1929, ch. 291, 45 Stat. 1255; Mar. 10, 1930, ch. 75, § 2, 46 Stat. 84.)

AMENDMENTS

1930—Subsec. (d) (1). Joint Res. Mar. 10, 1930, substituted "three years" for "two years."

1929—Subsec. (d) (1). Act Feb. 21, 1929, substituted "two years" for "one year."

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

For act Mar. 10, 1928, referred to in the text, providing for the settlement of certain claims, see note under section 9 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment of Office of Alien Property Custodian during World War II, see note under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 24, 26 to 39, 41 to 44 of this Appendix.

§ 26. Allocation of "unallocated interest fund."

(a) The Alien Property Custodian shall allocate among the various trusts the funds in the "unallocated interest fund" (as defined in section 28 [section 28 of this Appendix]). Such allocation shall be based upon the earnings (determined by the Secretary of the Treasury) on the total amounts deposited under section 12 [section 12 of this Appendix].

(b) The Alien Property Custodian, when the allocation has been made, is authorized and directed to pay to each person entitled, in accordance with a final decision of a court of the United States or of the District of Columbia, or of an opinion of the Attorney General, to the distribution of any portion of such unallocated interest fund, the amount allocated to his trust, except as provided in subsection (c) of this section.

(c) In the case of persons entitled, under paragraphs (12) to (14), or (16) of subsection (b) of section 9 [section 9(b) (12 to 14), or (16) of this Appendix], to such return, and in the case of persons who would be entitled to such return thereunder if all such money or property had not been returned under paragraph (9) or (10) of such subsection [section 9(b) (9) or (10) of this Appendix], and in the case of persons entitled to such return under subsection (n) of section 9 [section 9(n) of this Appendix], an amount equal to the aggregate amount allocated to their trusts shall be credited against the sum of \$25,000,000 invested in participating certificates under paragraph (1) of subsection (b) of section 25 [section 25(b)(1) of this Appendix]. If the aggregate amount so allocated is in excess of \$25,000,000, an amount equal to the excess shall be invested in the same manner. Upon the repayment of any of the amounts so invested, under the provisions of section 4 of the Settlement of War Claims Act of 1928, the amount so repaid shall be distributed pro rata among such persons, notwithstanding any receipts or releases given by them.

(d) The unallocated interest fund shall be available for carrying out the provisions of this section, including the expenses of making the allocation. (Oct. 6, 1917, ch. 106, § 26, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 273, and amended June 11, 1929, ch. 14, 46 Stat. 6)

AMENDMENTS

1929—Subsec. (a). Act June 11, 1929, struck out the words "average rate of" in the second sentence preceding the word "earnings."

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

For act Mar. 10, 1928, referred to in the text, providing for settlement of certain claims, see note under section 9 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 25, 27 to 39, 41 to 44 of this Appendix.

§ 27. Return by Custodian, to United States, of payments under licenses, assignments or sales of patents.

The Alien Property Custodian is authorized and directed to return to the United States any consideration paid to him by the United States under any license, assignment, or sale by the Alien Property Custodian to the United States of any patent (or any right therein or claim thereto, and including an application therefor and any patent issued pursuant to any such application). (Oct. 6, 1917, ch. 106, § 27, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 274.)

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

CROSS REFERENCES

Enemy's rights under patents, see section 10 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 26, 28 to 30, 41 to 44 of this Appendix.

§ 28. "Unallocated interest fund," defined.

As used in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], the term "unallocated interest fund" means the sum of (1) the earnings and profits accumulated prior to March 4, 1923, and attributable to investments and reinvestments under section 12 [section 12 of this Appendix] by the Secretary of the Treasury, plus (2) the earnings and profits accumulated on or after March 4, 1923, in respect of the earnings and profits referred to in clause (1) of this section. (Oct. 6, 1917, ch. 106, § 28, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 274.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to sections 1 to 6, 7 to 27, 29 to 30, 41 to 44 of this Appendix.

§ 29. Waiver by Custodian of demand for property; acceptance of less amount; approval of Attorney General.

(a) Where the Alien Property Custodian has made demand or requirement for the conveyance, transfer, assignment, delivery, or payment to him of any money or other property of any enemy or ally of enemy (whether or not suit or proceeding for the enforcement thereof has been begun and whether or not any judgment or decree in respect thereof has been made or entered) and where the whole or any part of such money or other property would, if conveyed, transferred, assigned, delivered, or paid to him, be returnable under any provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], the Alien Property Custodian may, in his discretion, and on such terms and conditions as he may prescribe, waive such demand or requirement, or accept in full satisfaction of such demand, requirement, judgment, or decree, a less amount than that demanded or required by him.

(b) The Alien Property Custodian shall not make any such waiver or compromise except with the approval of the Attorney General; nor (if any part of such money or property would be returnable only upon the filing of the written consent required by subsection (m) of section 9 [section 9(m) of this Appendix]) unless, after compliance with the terms and conditions of such waiver or compromise, the Alien Property Custodian or the Treasurer of the United States will hold (in respect of such enemy or ally of enemy) for investment as provided in section 25 [section 25 of this Appendix], an amount equal to 20 per centum of the sum of (1) the value of the money or other prop-

erty held by the Alien Property Custodian or the Treasurer of the United States at the time of such waiver or compromise, plus (2) the value of the money or other property to which the Alien Property Custodian would be entitled under such demand or requirement if the waiver or compromise had not been made.

(c) Where the Alien Property Custodian has made demand or requirement for the conveyance, transfer, assignment, delivery, or payment to him of any money or other property of any enemy or ally of enemy (whether or not suit or proceeding for the enforcement thereof has been begun and whether or not any judgment or decree in respect thereof has been made or entered) and where the interest or right of such enemy or ally of enemy in such money or property has not, prior to the enactment of the Settlement of War Claims Act of 1928, vested in enjoyment, the Alien Property Custodian may, in his discretion, and on such terms and conditions as he may prescribe, waive such demand and requirement, without compliance with the requirements of subsection (b) of this section, but only with the approval of the Attorney General.

(d) Nothing in this section shall be construed as requiring the Alien Property Custodian to make any waiver or compromise authorized by this section, and the Alien Property Custodian may proceed in respect of any demand or requirement referred to in subsection (a) or (c) of this section as if this section had not been enacted.

(e) All money or other property received by the Alien Property Custodian as a result of any action or proceeding (whether begun before or after the enactment of the Settlement of War Claims Act of 1928, and whether or not for the enforcement of a demand or requirement as above specified) shall for the purposes of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] be considered as forming a part of the trust in respect of which such action or proceeding was brought, and shall be subject to return in the same manner and upon the same conditions as any other money or property in such trust, except as otherwise provided in subsection (b) of this section. (Oct 6, 1917, ch. 106, § 29, as added Mar. 10, 1928, ch. 167, § 15. 45 (Stat. 274.))

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SETTLEMENT OF WAR CLAIMS ACT OF 1928

For act Mar. 10, 1928, referred to in the text, providing for the settlement of certain claims, see note under section 9 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 28, 30 to 39, 41 to 44 of this Appendix.

§ 30. Attachment or garnishment of funds or property held by Custodian.

Any money or other property returnable under subsection (b) or (n) of section 9 [section 9 (b) or (n) of this Appendix] shall, at any

time prior to such return, be subject to attachment in accordance with the provisions of the code of law for the District of Columbia, as amended, relating to attachments in suits at law and to attachments for the enforcement of judgments at law and decrees in equity, but any writ of attachment or garnishment issuing in any such suit, or for the enforcement of any judgment or decree, shall be served only upon the Alien Property Custodian, who shall for the purposes of this section be considered as holding credits in favor of the person entitled to such return to the extent of the value of the money or other property so returnable. Nothing in this section shall be construed as authorizing the taking of actual possession, by any officer of any court, of any money or other property held by the Alien Property Custodian or by the Treasurer of the United States. (Oct. 6, 1917, ch. 106, § 30, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 275.)

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Re-establishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 29, 31 to 39, 41 to 44 of this Appendix.

§ 31. "Member of former ruling family," defined.

As used in this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], the term "member of the former ruling family" means (1) any person who was at any time between April 6, 1917, and July 2, 1921, the German Emperor or the ruler of any constituent kingdom of the German Empire, or (2) the wife or any child of such person (Oct. 6, 1917, ch. 106, § 31, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 275.)

CROSS REFERENCES

Definitions generally, see section 2 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 30, 32 to 39, 41 to 44 of this Appendix.

§ 32. Return of property.

(a) Conditions precedent.

The President, or such officer or agency as he may designate, may return any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, whenever the President or such officer or agency shall determine—

- (1) That the person who has filed a notice of claim for return, in such form as the President or such officer or agency may prescribe, was the owner of such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian,

or is the legal representative (whether or not appointed by a court in the United States), or successor in interest by inheritance, devise, bequest, or operation of law, of such owner; and

(2) That such owner, and legal representative or successor in interest, if any, are not—

(A) the Government of Germany, Japan, Bulgaria, Hungary, or Rumania; or

(B) a corporation or association organized under the laws of such nation: *Provided*, That any property or interest or proceeds which, but for the provisions of this subdivision, might be returned under this section to any such corporation or association, may be returned to the owner or owners of all the stock of such corporation or of all the proprietary and beneficial interest in such association, if their ownership of such stock or proprietary and beneficial interest existed immediately prior to vesting in or transfer to the Alien Property Custodian and continuously thereafter to the date of such return (without regard to purported divestments or limitations of such ownership by any government referred to in subdivision (A) of this subsection) and if such ownership was by one or more citizens of the United States or by one or more corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia: *Provided further*, That such owner or owners shall succeed to those obligations limited in aggregate amount to the value of such property or interest or proceeds, which are lawfully assertible against the corporation or association by persons not ineligible to receive a return under this section; or

(C) an individual voluntarily resident at any time since December 7, 1941, within the territory of such nation, other than a citizen of the United States or a diplomatic or Consular officer of Italy or of any nation with which the United States has not at any time since December 7, 1941, been at war: *Provided*, That an individual who, while in the territory of a nation with which the United States has at any time since December 7, 1941, been at war, was deprived of life or substantially deprived of liberty pursuant to any law, decree, or regulation of such nation discriminating against political, racial, or religious groups, shall not be deemed to have voluntarily resided in such territory; or

(D) an individual who was at any time after December 7, 1941, a citizen or subject of Germany, Japan, Bulgaria, Hungary, or Rumania, and who on or after December 7, 1941, and prior to the date of the enactment of this section [March 8, 1946], was present (other than in the service of the United States) in the territory of such nation or in any territory occupied by the military or naval forces thereof or engaged in any business in any such territory: *Provided*, That notwithstanding the provisions of this subdivision return may be made to an individual who, as a consequence of any law, decree, or regulation of the nation of which he was then a citizen or subject, discriminating against political, racial, or religious

groups, has at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated, enjoyed full rights of citizenship under the law of such nation: *And provided further*, That, notwithstanding the provisions of subdivision (C) of this subsection and of this subdivision, return may be made to an individual who at all times since December 7, 1941, was a citizen of the United States, or to an individual who, having lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country, reacquired such citizenship prior to September 29, 1950, if such individual would have been a citizen of the United States at all times since December 7, 1941, but for such marriage: *And provided further*, That the aggregate book value of returns made pursuant to the foregoing proviso shall not exceed \$9,000,000; and any return under such proviso may be made if the book value of any such return, taken together with the aggregate book value of returns already made under such proviso does not exceed \$9,000,000; and for the purposes of this proviso the term "book value" means the value, as of the time of vesting, entered on the books of the Alien Property Custodian for the purpose of accounting for the property or interest involved; or

(E) a foreign corporation or association which at any time after December 7, 1941, was controlled or 50 per centum or more of the stock of which was owned by any person or persons ineligible to receive a return under subdivisions (A)—

(C) or (D) of this subsection: *Provided*, That notwithstanding the provisions of this subdivision, return may be made to a corporation or association so controlled or owned, if such corporation or association was organized under the laws of a nation any of whose territory was occupied by the military or naval forces of any nation with which the United States has at any time since December 7, 1941, been at war, and if such control or ownership arose after March 1, 1938, as an incident to such occupation and was terminated prior to the enactment of this section [March 8, 1946];

and

(3) that the property or interest claimed, or the net proceeds of which are claimed, was not at any time after September 1, 1939, held or used, by or with the assent of the person who was the owner thereof immediately prior to vesting in or transfer to the Alien Property Custodian, pursuant to any arrangement to conceal any property or interest within the United States of any person ineligible to receive a return under subsection (a) (2) of this section:

(4) that the Alien Property Custodian has no actual or potential liability under the Renegotiation Act or the Act of October 31, 1942 (56 Stat. 1013; 35 U.S.C. §§ 89 to 96), in respect of the property or interest or proceeds to be returned and that the claimant and his predecessor in interest, if any, have no actual or potential liability of any kind under the Renegotiation Act or the said Act of October 31, 1942; or in the alternative that the claimant has provided security or undertakings adequate to assure satisfaction

of all such liabilities or that property or interest or proceeds to be retained by the Alien Property Custodian are adequate therefor; and

(5) that such return is in the interest of the United States.

(b) Extension of filing time limitation for redetermination of excessive profits.

Notwithstanding the limitation prescribed in the Renegotiation Act upon the time within which petitions may be filed in The Tax Court of the United States, any person to whom any property or interest or proceeds are returned hereunder shall, for a period of ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) following return, have the right to file such a petition for a redetermination in respect of any final order of the Renegotiation Board determining excessive profits, made against the Alien Property Custodian, or of any determination, not embodied in an agreement, of excessive profits, so made by or on behalf of a Secretary.

(c) Inventions.

Any person to whom any invention, whether patented or unpatented, or any right or interest therein is returned hereunder shall be bound by any notice or order issued or agreement made pursuant to the Act of October 31, 1942 (56 Stat. 1013; 35 U.S.C. §§ 89 to 96), in respect of such invention or right or interest, and such person to whom a licensor's interest is returned shall have all rights assertible by a licensor pursuant to section 2 of the said Act.

(d) Rights and duties.

Except as otherwise provided herein, and except to the extent that the President or such officer or agency as he may designate may otherwise determine, any person to whom return is made hereunder shall have all rights, privileges, and obligations in respect to the property or interest returned or the proceeds of which are returned which would have existed if the property or interest had not vested in the Alien Property Custodian, but no cause of action shall accrue to such person in respect of any deduction or retention of any part of the property or interest or proceeds by the Alien Property Custodian for the purpose of paying taxes, costs, or expenses in connection with such property or interest or proceeds: *Provided*, That except as provided in subsections (b) and (c) of this section no person to whom a return is made pursuant to this section, nor the successor in interest of such person, shall acquire or have any claim or right of action against the United States or any department, establishment or agency thereof, or corporation owned thereby, or against any person authorized or licensed by the United States, founded upon the retention, sale, or other disposition, or use, during the period it was vested in the Alien Property Custodian, of the returned property, interest, or proceeds. Any notice to the Alien Property Custodian in respect of any property or interest or proceeds shall constitute notice to the person to whom such property or interest or proceeds is returned and such person shall succeed to all burdens and obligations in respect of such property or interest or proceeds which accrued during the time of retention by the Alien Property Custodian, but the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any

statute of limitations to the assertion of any rights by such person in respect of such property or interest or proceeds.

(e) Legal proceeding unaffected.

No return hereunder shall bar the prosecution of any suit at law or in equity against a person to whom return has been made, to establish any right, title, or interest, which may exist or which may have existed at the time of vesting, in or to the property or interest returned, but no such suit may be prosecuted by any person ineligible to receive a return under subsection (a) (2) of this section. With respect to any such suit, the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations.

(f) Notice of intention.

At least thirty days before making any return to any person other than a resident of the United States or a corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, the President or such officer or agency as he may designate shall publish in the Federal Register a notice of intention to make such return, specifying therein the person to whom return is to be made and the place where the property or interest or proceeds to be returned are located. Publication of a notice of intention to return shall confer no right of action upon any person to compel the return of any such property or interest or proceeds, and such notice of intention to return may be revoked by appropriate notice in the Federal Register. After publication of such notice of intention and prior to revocation thereof, the property or interest or proceeds specified shall be subject to attachment at the suit of any citizen or resident of the United States or any corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, in the same manner as property of the person to whom return is to be made: *Provided*, That notice of any writ of attachment which may issue prior to return shall be served upon the Alien Property Custodian. Any such attachment proceeding shall be subject to the provisions of law relating to limitation of actions applicable to actions at law in the jurisdiction in which such proceeding is brought, but the period during which the property or interest or proceeds were vested in the Alien Property Custodian shall not be included for the purpose of determining the period of limitation. No officer of any court shall take actual possession, without the consent of the Alien Property Custodian, of any property or interest or proceeds so attached, and publication of a notice of revocation of intention to return shall invalidate any attachment with respect to the specified property or interest or proceeds, but if there is no such revocation, the President or such officer or agency as he may designate shall accord full effect to any such attachment in returning any such property or interest or proceeds.

(g) Payment of expenses of Custodian.

Without limitation by or upon any other existing provision of law with respect to the payment of expenses by the Alien Property Custodian, the Custodian may retain or recover from any property or interest or proceeds returned pursuant to this section or section 9(a) of this Act [section 9(a) of this Appendix] an amount not exceeding that

expended or incurred by him for the conservation, preservation, or maintenance of such property or interest or proceeds, or other property or interest or proceeds returned to the same person.

(h) Designation of successor organizations to receive heirless property; time for application; payment of funds: time, allocation, claims barred by acceptance and conditions.

The President may designate one or more organizations as successors in interest to deceased persons who, if alive, would be eligible to receive returns under the provisos of subdivision (C) or (D) of subsection (a) (2) thereof. In the case of any organization not so designated before the date of enactment of this amendment, such organization may be so designated only if it applies for such designation within three months after such date of enactment.

The President, or such officer as he may designate, shall, before the expiration of the one-year period which begins on the date of enactment of this amendment, pay out of the War Claims Fund to organizations designated before or after the date of enactment of this amendment pursuant to this subsection the sum of \$500,000. If there is more than one such designated organization, such sum shall be allocated among such organizations in the proportions in which the proceeds of heirless property were distributed, pursuant to agreements to which the United States was a party, by the Intergovernmental Committee for Refugees and successor organizations thereto. Acceptance of payment pursuant to this subsection by any such organization shall constitute a full and complete discharge of all claims filed by such organization pursuant to this section, as it existed before the date of enactment of this amendment.

No payment may be made to any organization designated under this section unless it has given firm and responsible assurance approved by the President that (1) the payment will be used on the basis of need in the rehabilitation and settlement of persons in the United States who suffered substantial deprivation of liberty or failed to enjoy the full rights of citizenship within the meaning of subdivisions (C) and (D) of subsection (a) (2) of this section; (2) it will make to the President, with a copy to be furnished to the Congress, such reports (including a detailed annual report on the use of the payment made to it) and permit such examination of its books as the President, or such officer or agency as he may designate, may from time to time require; and (3) it will not use any part of such payment for legal fees, salaries, or other administrative expenses connected with the filing of claims for such payment or for the recovery of any property or interest under this section.

As used in this subsection, "organization" means only a nonprofit charitable corporation incorporated on or before January 1, 1950, under the laws of any State of the United States or the District of Columbia with the power to sue and be sued. (Oct. 6, 1917, ch. 106, § 32 as added Dec. 18, 1941, ch. 593, title III, § 304, as added Mar. 8, 1946, ch. 83, § 1, 60 Stat. 50 and amended Aug 8, 1946, ch. 878, § 2, 60 Stat. 930; Aug. 5, 1947, ch. 499, § 2, 61 Stat. 784; Sept. 29, 1950, ch. 1108, § 1, 64 Stat. 1080; Mar. 23, 1951, ch. 15, title II, § 201 (a, b), 65 Stat. 23; June 6, 1952, ch. 372, 66 Stat. 129; Aug. 23, 1954, ch. 830, § 1, 68 Stat. 767; Oct. 22, 1962, Pub. L. 87-846, title II, § 204(a), 76 Stat. 1114.)

REFERENCES IN TEXT

Renegotiation Act, referred to in subsec. (a) (4) and (b), is classified to section 1191 of this Appendix.

Act of October 31, 1942 (56 Stat. 1013; 35 U.S.C. §§ 89-96) and said act of October 31, 1942, referred to in subsecs. (a) (4) and (c), which related to royalty adjustment during World War II, expired by their own terms.

Section 2 of the said Act, referred to in subsec. (c), has reference to section 2 of Act of October 31, 1942 [former section 90 of Title 35, Patents].

The date of enactment of this amendment, referred to in subsec. (h), refers to Oct. 22, 1962, the date of enactment of Pub. L. 87-846, which amended subsec. (h) of this section.

AMENDMENTS

1962—Subsec. (h). Pub. L. 87-946 permitted application for designation as successor organization to be made within three months after Oct. 22, 1962, required payments in sum of \$500,000 to be made from the War Claims Fund before expiration of one year from Oct. 22, 1962, provided for allocation of funds to multiple successor organizations and acceptance of payments as discharge of all claims, and eliminated provisions deeming a successor organization as successor in interest by operation of law, respecting time for making return to such organizations, limiting the return to \$3,000,000, requiring filing of notice of claim before expiration of one year from Aug. 23, 1954, for transfer of property to eligible persons, and declaring that filing of notice of claim would not bar payment of debt claims under section 34 of this Appendix.

1954—Subsec. (h). Act Aug. 23, 1954, added subsec. (h).

1952—Subsec. (a) (2) (D). Act June 6, 1952, increased from \$5,000,000 to \$9,000,000 the limitation on the amount of property which may be returned to nationals.

1950—Subsec. (a) (2) (D), Act Sept. 29, 1950, clarified the authority of the Alien Property Custodian to return vested property to a person who possessed American citizenship at all times since Dec. 7, 1941, despite concurrent enemy citizenship and residence in enemy territory, and authorized the return of vested property to American women who lost their citizenship solely because of marriage, and who have reacquired their citizenship prior to Sept. 29, 1950.

1947—Subsec. (a) (2). Act Aug. 5, 1947, provided that returns shall not be made to any owner, legal representative, or successor in interest, of the Governments of Germany, Japan, Rumania, Bulgaria, or Hungary; or to corporations or associations organized under the laws of such countries; or to an individual voluntarily resident in such countries at any time since Dec. 7, 1941; or to an individual who was at any time after Dec. 7, 1941, a citizen or subject of such country and present in the territory of such nation.

1946—Subsec. (a) (2). Act Aug. 8, 1946, added provisos to subdvs. (C) and (D), respectively.

ABOLISHMENT OF WAR CONTRACTS PRICE ADJUSTMENT BOARD; TRANSFER OF FUNCTIONS

The War Contracts Price Adjustment Board was abolished and all powers functions, and duties conferred upon the Board by the Renegotiation Act, section 1191 of this Appendix, except those transferred to the Administrator of General Services, were transferred to the Renegotiation Board by act Mar. 23, 1951, § 201 (a) and (b), set out as section 1231 (a) and (b) of this Appendix.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

PURPOSE OF ACT AUG. 5, 1947

Congress in enacting act Aug. 5, 1947, outlined the purpose of the act as follows:

"Whereas article 79 of the Treaty of Peace with Italy, signed at Paris on February 10, 1947, grants to the Allied and Associated Powers the right to seize and retain 'all property rights and interests which on the coming into force of the present treaty are within its territory and belong to Italy or to Italian na-

tionals, and to apply such property or the proceeds thereof to such purposes as it may desire, within the limits of its claims and those of its nationals against Italy or Italian nationals, including debts, other than claims fully satisfied under other articles of the present treaty' and further provides that 'All Italian property, or the proceeds thereof, in excess of the amount of such claims, shall be returned'; and

"Whereas, pursuant to article 79 of the treaty of peace negotiations have been entered into between the Governments of the United States and of Italy looking toward an agreement under which, upon the return of property, formerly Italian, in the United States, Italy will place at the disposal of the United States funds to be used in meeting certain claims of nationals of the United States; and

"Whereas, for the purpose of carrying out such agreement, it is desirable to authorize, in accordance with the procedures provided for in section 32 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended [this section], return to Italy or citizens or subjects of Italy, or corporations or associations organized under the laws of Italy, of property vested in or transferred to the United States or its agencies; and

"Whereas, for the purpose of aiding the revival of the Italian economy and establishing it on a self-sustaining basis, it is desirable that there be returned or transferred to Italy those Italian vessels acquired by the United States after December 7, 1941, for use in the war effort and now owned by the United States and vessels of a total tonnage approximately equal to the tonnage of those Italian vessels seized by the United States after September 1, 1939, and lost while being employed in the United States war effort."

RETURN OF ITALIAN PROPERTY

Section 1 of act Aug. 5, 1947, provided: "That the President, or such officer or agency as he may designate, is hereby authorized to return, in accordance with the procedures provided for in section 32 of the Trading With the Enemy Act, as amended [this section], any property or interest, or the net proceeds thereof, which has been, since December 18, 1941, vested in or transferred to any officer or agency of the United States pursuant to the Trading With the Enemy Act, as amended [sections 1—6, 7—39 of this Appendix], and which immediately prior to such vesting or transfer was the property or interest of Italy or a citizen or subject of Italy, or a corporation or association organized under the laws of Italy."

TRANSFER OF VESSELS TO ITALIAN GOVERNMENT

Section 4 of act Aug. 5, 1947, provided: "The President is authorized upon such terms as he deems necessary (a) to transfer to the Government of Italy all vessels which were under Italian registry and flag on September 1, 1939, and were thereafter acquired by the United States and are now owned by the United States; and (b) with respect to any vessel under Italian registry and flag on September 1, 1939, and subsequently seized in United States ports and thereafter lost while being employed in the United States war effort, to transfer to the Government of Italy surplus merchant vessels of the United States of a total tonnage approximately equal to the total tonnage of the Italian vessels lost: *Provided*, That no monetary compensation shall be paid either for the use by the United States or its agencies of former Italian vessels so acquired or seized or for the return or transfer of such vessels or substitute vessels."

CROSS REFERENCES

Administration of President's power and authority by Alien Property Custodian, see note under section 20 of this Appendix.

EX. ORD. NO. 10587. ADMINISTRATION AND DELEGATION OF FUNCTIONS

Ex. Ord. No. 10587, Jan. 13, 1955, 20 F.R. 361, as amended by Ex. Ord. No. 11086, Feb. 26, 1963, 28 F.R. 1833, provided:

SECTION 1. The Jewish Restitution Successor Organization, a charitable membership organization incorporated under the laws of the State of New York, is hereby designated as successor in interest to deceased persons in accordance with and for the purposes of subsection (h) of section 32 of the Trading with the Enemy Act, as added by the Act of August 23, 1954 (68 Stat. 767), and amended

by section 204(a) of Public Law 87-846, approved October 22, 1962 (76 Stat. 1114) [subsec. (h) of this section].

SEC. 2. Exclusive of the designation of the Jewish Restitution Successor Organization under section 1 of this Order and the exercise of jurisdiction over the claims referred to in section 3, the Foreign Claims Settlement Commission is hereby delegated and shall carry out the functions provided for in subsection (h) of section 32 of the Trading with the Enemy Act, as amended [subsec. (h) of this section], including the designation or refusal of designation of other organizations under the first sentence of that subsection, the payment of \$500,000 out of the War Claims Fund to the designated organization or organizations and all other powers, duties, authority and discretion vested in or conferred upon the President.

SEC. 3. Jurisdiction over the claims filed by the Jewish Restitution Successor Organization with the Attorney General under subsection (h) of section 32 of the Trading with the Enemy Act [subsec. (h) of this section] prior to the amendment thereof by section 204(a) of Public Law 87-846 shall remain with the Attorney General pending the discharge of such claims by that organization's acceptance of payment pursuant to subsection (h), as amended [subsec. (h) of this section] or other discharge of such claims pursuant to law.

JOHN F. KENNEDY.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 31, 33 to 39, 41 to 44 of this Appendix.

§ 33. Same; notice; institution of suits; computation of time.

No return may be made pursuant to section 9 or 32 [section 9 or 32 of this Appendix] unless notice of claim has been filed: (a) in the case of any property or interest acquired by the United States prior to December 18, 1941, by August 9, 1948; or (b) in the case of any property or interest acquired by the United States on or after December 18, 1941, not later than one year from February 9, 1954, or two years from the vesting of the property or interest in respect of which the claim is made, whichever is later. No suit pursuant to section 9 [section 9 of this Appendix] may be instituted after April 30, 1949, or after the expiration of two years from the date of the seizure by or vesting in the Alien Property Custodian, as the case may be, of the property or interest in respect of which relief is sought, whichever is later, but in computing such two years there shall be excluded any period during which there was pending a suit or claim for return pursuant to section 9 or 32(a) hereof [section 9 or 32(a) of this Appendix]. (Oct. 6, 1917, ch. 106, § 33, as added Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925, and amended Aug. 5, 1947, ch. 499, § 3, 61 Stat. 786; July 1, 1948, ch. 794, 62 Stat. 1218; Feb. 9, 1954, ch. 4, 68 Stat. 7; Aug. 23, 1954, ch. 830, § 2, 68 Stat. 768; Oct. 22, 1962, Pub. L. 87-846, title II, § 204(b), 76 Stat. 1115.)

AMENDMENTS

1962—Pub. L. 87-846 eliminated provision for return of property to successor organizations pursuant to section 32(h) of this Appendix if notice of claim was filed before expiration of one year from Aug. 23, 1954.

1954—Act Aug. 23, 1954, inserted, at end of first sentence, the words "except that return may be made to successor organizations designated pursuant to section 32(h) hereof if notice of claim is filed before the expiration of one year from the effective date of this Act."

Act Feb. 9, 1954, substituted "not later than one year from February 9, 1954" for "by April 30, 1949" in first sentence.

1948—Act July 1, 1948, extended the provided time for filing claims under section 9 or 32 of this Appendix.

1947—Act Aug. 5, 1947, provided that notice of certain claims could be filed by Aug. 8, 1948, or that Italian notice of claim could be filed by July 31, 1949.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 32, 34 to 39, 41 to 44 of this Appendix; title 22 section 1631o.

§ 34. Payment of debts.**(a) Claims allowable; defenses.**

Any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, shall be equitably applied by the Custodian in accordance with the provisions of this section to the payment of debts owed by the person who owned such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian. No debt claim shall be allowed under this section if it was not due and owing at the time of such vesting or transfer, or if it arose from any action or transactions prohibited by or pursuant to this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] and not licensed or otherwise authorized pursuant thereto, or (except in the case of debt claims acquired by the Custodian) if it was at the time of such vesting or transfer due and owing to any person who has since the beginning of the war been convicted of violation of this Act [said sections], as amended, sections 1 to 6 of the Criminal Code, title I of the Act of June 15, 1917 (ch. 30, 40 Stat. 217), as amended; the Act of April 20, 1918 (ch. 59, 40 Stat. 534), as amended; the Act of June 8, 1934 (ch. 327, 52 Stat. 631), as amended; the Act of January 12, 1938 (ch. 2, 52 Stat. 3); title I, Alien Registration Act, 1940 (ch. 439, 54 Stat. 670); the Act of October 17, 1940 (ch. 897, 54 Stat. 1201); or the Act of June 25, 1942 (ch. 447, 56 Stat. 390). Any defense to the payment of such claims which would have been available to the debtor shall be available to the Custodian, except that the period from and after the beginning of the war shall not be included for the purpose of determining the application of any statute of limitations. Debt claims allowable hereunder shall include only those of citizens of the United States or of the Philippine Islands; those of corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia or the Philippine Islands; those of other natural persons who are and have been since the beginning of the war residents of the United States and who have not during the war been interned or paroled pursuant to the Alien Enemy Act; and those acquired by the Custodian. Legal representatives (whether or not appointed by a court in the United States) or successors in interest by inheritance, devise, bequest, or operation of law or debt claimants, other than persons who would themselves be disqualified hereunder from allowance of a debt claim, shall be eligible for payment to the same extent as their principals of predecessors would have been.

(b) Time limit for filing claims; extension; notice.

The Custodian shall fix a date or dates after which the filing of debt claims in respect of any or all debtors shall be barred, and may extend the times so fixed, and shall give at least sixty days' notice thereof by

publication in the Federal Register. In no event shall the time extend beyond the expiration of two years from the date of the last vesting in or transfer to the Custodian of any property or interest of a debtor in respect of whose debts the date is fixed, or from the date of enactment of this section [Aug. 8, 1946], whichever is later. No debt shall be paid prior to the expiration of one hundred and twenty days after publication of the first such notice in respect of the debtor, nor in any event shall any payment of a debt claim be made out of any property or interest or proceeds in respect of which a suit or proceeding pursuant to this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] for return is pending and was instituted prior to the expiration of such one hundred and twenty days.

(c) Examination of claims.

The Custodian shall examine the claims, and such evidence in respect thereof as may be presented to him or as he may introduce into the record, and shall make a determination, with respect to each claim, of allowance or disallowance, in whole or in part.

(d) Funds for debt payments.

Payment of debt claims shall be made only out of such money included in, or received as net proceeds from the sale, use, or other disposition of, any property or interest owned by the debtor immediately prior to its vesting in or transfer to the Alien Property Custodian, as shall remain after deduction of (1) the amount of the expenses of the Office of Alien Property Custodian (including both expenses in connection with such property or interest or proceeds thereof, and such portion as the Custodian shall fix of the other expenses of the Office of Alien Property Custodian), and of taxes, as defined in section 36 hereof [section 36 of this Appendix], paid by the Custodian in respect of such property or interest or proceeds, and (2) such amount, if any, as the Custodian may establish as a cash reserve for the future payment of such expenses and taxes. If the money available hereunder for the payment of debt claims against the debtor is insufficient for the satisfaction of all claims allowed by the Custodian, ratable payments shall be made in accordance with subsection (g) hereof to the extent permitted by the money available and additional payments shall be made whenever the Custodian shall determine that substantial further money has become available, through liquidation of any such property or interest or otherwise. The Custodian shall not be required through any judgment of any court, levy of execution, or otherwise to sell or liquidate any property or interest vested in or transferred to him, for the purpose of paying or satisfying any debt claim.

(e) Amount payable; disallowance; notice; review; additional evidence; judgment.

If the aggregate of debt claims filed as prescribed does not exceed the money from which, in accordance with subsection (d) of this section, payment may be made, the Custodian shall pay each claim to the extent allowed, and shall serve by registered mail, on each claimant whose claim is disallowed in whole or in part, a notice of such disallowance. Within sixty days after the date of mailing of the Custodian's determination, any debt claimant whose claim has been disallowed in whole or in part may file in the United States District Court for the District of Columbia a complaint for review of such disallow-

ance naming the Custodian as defendant. Such complaint shall be served on the Custodian. The Custodian, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings in the Office of Alien Property Custodian with respect to the claim in question. Upon good cause shown such time may be extended by the court. Such record shall include the claim as filed, such evidence with respect thereto as may have been presented to the Custodian or introduced into the record by him, and the determination of the Custodian with respect thereto, including any findings made by him. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the Custodian, or could not reasonably have been adduced before him or was not available to him. The court shall enter judgment affirming, modifying, or reversing the Custodian's determination, and directing payment in the amount, if any, which it finds due.

(f) Pro rata payments; notice; review; additional evidence; intervention; judgment.

If the aggregate of debt claims filed as prescribed exceeds the money from which, in accordance with subsection (d) hereof, payment may be made, the Custodian shall prepare and serve by registered mail on all claimants a schedule of all debt claims allowed and the proposed payment to each claimant. In preparing such schedule, the Custodian shall assign priorities in accordance with the provisions of subsection (g) hereof. Within sixty days after the date of mailing of such schedule, any claimant considering himself aggrieved may file in the United States District Court for the District of Columbia a complaint for review of such schedule, naming the Custodian as defendant. A copy of such complaint shall be served upon the Custodian and on each claimant named in the schedule. The Custodian, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings in the Office of Alien Property Custodian with respect to such schedule. Upon good cause shown such time may be extended by the court. Such record shall include the claims in question as filed, such evidence with respect thereto as may have been presented to the Custodian or introduced into the record by him, any findings or other determinations made by the Custodian with respect thereto, and the schedule prepared by the Custodian. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the Custodian or could not reasonably have been adduced before him or was not available to him. Any interested debt claimant who has filed a claim with the Custodian pursuant to this section, upon timely application to the court, shall be permitted to intervene in such review proceedings. The court shall enter judgment affirming or modifying the schedule as prepared by the Custodian and directing payment, if any be found due, pursuant to the schedule as affirmed or modified and to the extent of the money from which, in accordance with subsection (d) hereof, payment may be made. Pending the decision of the court on such complaint for review, and pending final determination of any appeal from such decision, payment may be made only to an extent, if any, consistent with the contentions of all claimants for review.

(g) Priority of claims.

Debt claims shall be paid in the following order of priority: (1) Wage and salary claims, not to exceed \$600; (2) claims entitled to priority under sections 191 and 193 of Title 31, except as provided in subsection (h) hereof, (3) all other claims for services rendered, for expenses incurred in connection with such services, for rent, for goods and materials delivered to the debtor, and for payments made to the debtor for goods or services not received by the claimant; (4) all other debt claims. No payment shall be made to claimants within a subordinate class unless the money from which, in accordance with subsection (d) hereof, payment may be made permits payment in full of all allowed claims in every prior class.

(h) Priority as debt due United States.

No debt of any kind shall be entitled to priority under any law of the United States or any State, Territory, or possession thereof, or the District of Columbia, solely by reason of becoming a debt due or owing to the United States as a result of its acquisition by the Alien Property Custodian.

(i) Exclusiveness of relief.

The sole relief and remedy available to any person seeking satisfaction of a debt claim out of any property or interest which shall have been vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the proceeds thereof, shall be the relief and remedy provided in this section, and suits for the satisfaction of debt claims shall not be instituted, prosecuted, or further maintained except in conformity with this section; *Provided*, That no person asserting any interest, right, or title in any property or interest or proceeds acquired by the Alien Property Custodian, shall be barred from proceeding pursuant to this Act [sections 1 to 6, and 7 to 39 and 41 to 44 of this Appendix] for the return thereof, by reason of any proceeding which he may have brought pursuant to this section; nor shall any security interest asserted by the creditor in any such property or interest or proceeds be deemed to have been waived solely by reason of such proceeding. The Alien Property Custodian shall treat all debt claims now filed with him as claims filed pursuant to this section. Nothing contained in this section shall bar any person from the prosecution of any suit at law or in equity against the original debtor or against any other person who may be liable for the payment of any debt for which a claim might have been filed hereunder. No purchaser, lessee, licensee, or other transferee of any property or interest from the Alien Property Custodian shall, solely by reason of such purchase, lease, license, or transfer, become liable for the payment of any debt owed by the person who owned such property or interest prior to its vesting in or transfer to the Alien Property Custodian. Payment to the Alien Property Custodian to any debt claimant shall constitute, to the extent of payment, a discharge of the indebtedness represented by the claim. (Oct. 6, 1917, ch. 106 § 34, as added Dec. 18, 1941, ch. 593, title III § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925, and amended June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

REFERENCES IN TEXT

Criminal Code, §§ 1-6, former sections 1-6 of Title 18, referred to in subsec. (a), were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and are covered by sections 953 and 2381-2384 of Title 18, Crimes and Criminal Procedure.

Title I of the act of June 15, 1917, ch. 30, 40 Stat. 217, as amended, former sections 31-33 of this title, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948 and is covered by sections 792-794 and 2388 of Title 18, Crimes and Criminal Procedure.

Act of Apr. 20, 1918, ch. 59, 40 Stat. 534, as amended, former sections 101-106 of this title, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by sections 2151 and 2153-2156 of Title 18, Crimes and Criminal Procedure.

Act of June 8, 1934 (ch. 327, 52 Stat. 631), as amended, referred to in subsec. (a), is classified to sections 611-621 of Title 22, Foreign Relations and Intercourse.

Act Jan. 12, 1938, ch. 2, 52 Stat. 3, former sections 45-45d of this title, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by sections 795-797 of Title 18, Crimes and Criminal Procedure.

Title I, Alien Registration Act, 1940, ch. 439, 54 Stat. 670, former sections 913 of Title 18, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by section 2385 of Title 18, Crimes and Criminal Procedure and Fed. Rules Cr. Proc. rule 41(c), Title 18, Appendix, Crimes and Criminal Procedure.

Act Oct. 17, 1940, ch. 897, 54 Stat. 1201, former sections 14-17 of Title 18, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by section 2386 of Title 18, Crimes and Criminal Procedure.

Act of Jun 25, 1942 (ch. 447, 56 Stat. 390), referred to in subsec. (a), is classified to sections 781-785 of this Appendix.

Alien Enemy Act, referred to in subsec. (a), is classified to section 21 of this title.

CHANGE OF NAME

Subsecs. (e) and (f) amended by act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, which substituted "United States District Court for the District of Columbia" for "District Court of the United States for the District of Columbia".

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 33, 35 to 39, 41 to 44 of this Appendix.

§ 35. Hearings on claims; rules and regulations; delegation of powers.

The officer or agency empowered to entertain claims under sections 9(a), 32, and 34 hereof [sections 9 (a), 32 and 34 of this Appendix] shall have power to hold such hearings as may be deemed necessary; to prescribe rules and regulations governing the form and contents of claims, the proof thereof, and all other matters related to proceedings on such claims; and in connection with such proceedings to issue subpoenas, administer oaths, and examine witnesses. Such powers, and any other powers conferred upon such officer or agency by sections 9 (a) 32, and 34 hereof [said sections] may be exercised through subordinate officers designated by such officer or agency. (Oct. 6, 1917, ch. 106, § 35, as added Dec. 18, 1941, ch. 593, Title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 34, 36 to 39, 41 to 44 of this Appendix.

§ 36. Taxes.

(a) Liability; exemptions.

The vesting in or transfer to the Alien Property Custodian of any property or interest (other than any property or interest acquired by the United States prior to December 18, 1941), or the receipt by him of any earnings, increment, or proceeds thereof shall not render inapplicable any Federal, State, Territorial, or local tax for any period prior or subsequent to the date of such vesting or transfer, nor render applicable the exemptions provided in title II of the Social Security Act with respect to service performed in the employ of the United States Government or of any instrumentality of the United States.

(b) Payment by Custodian; liability of former owner; enforcement of tax liability; transfer of property.

The Alien Property Custodian shall, notwithstanding the filing of any claim or the institution of any suit under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], pay any tax incident to any such property or interest, or the earnings, increment, or proceeds thereof, at the earliest time appearing to him to be not contrary to the interest of the United States. The former owner shall not be liable for any such tax accruing while such property, interest, earnings, increment, or proceeds are held by the Alien Property Custodian, unless they are returned pursuant to this Act [said sections] without payment of such tax by the Alien Property Custodian. Every such tax shall be paid by the Alien Property Custodian to the same extent, as nearly as may be deemed practicable, as though the property or interest had not been vested in or transferred to the Alien Property Custodian, and shall be paid only out of the property or interest, or earnings, increment, or proceeds thereof, to which they are incident or out of other property or interests acquired from the same former owner, or earnings, increment, or proceeds thereof. No tax liability may be enforced from any property or interest or the earnings, increment or proceeds thereof while held by the Alien Property Custodian except with his consent. Where any property or interest or the earnings, increment, or pursuant to section 9(a) or 32 hereof [section 9(a) or 32(a) of this Appendix], the Alien Property Custodian may transfer the property or interest free and clear of any tax, except to the extent of any lien for a tax existing and perfected at the date of vesting, and the proceeds of such transfer shall, for tax purposes, replace the property or interest in the hands of the Alien Property Custodian.

(c) Computation; suspension of limitations, etc.

Subject to the provisions of subsection (b) of this section, the manner of computing any Federal taxes, including without limitation by reason of this enumeration, the applicability in such computation of credits, deductions, and exemptions to which the former owner is or would be entitled, and the time and manner of any payment of such taxes and the extent of any compliance by the Custodian with provisions of Federal law and regulations applicable with respect to Federal taxes, shall be in accordance with regulations prescribed by the

Commissioner of Internal Revenue with the approval of the Secretary of the Treasury to effectuate this section. Statutes of limitations on assessment, collection, refund, or credit of Federal taxes shall be suspended, with respect to any vested property or interest, or the earnings, increment or proceeds thereof, while vested and for six months thereafter; but no interest shall be paid upon any refund with respect to any period during which the statute of limitations is so suspended.

(d) Definition.

The word "tax" as used in this section shall include, without limitation by reason of this enumeration, any property, income, excess-profits, war-profits, excise, estate and employment tax, import duty, and special assessment; and also any interest, penalty, additional amount, or addition thereto not arising from any act, omission, neglect, failure, or delay on the part of the Custodian.

(e) Exemptions.

Any tax exemption accorded to the Alien Property Custodian by specific provision of existing law shall not be affected by this section. (Oct. 6, 1917, ch. 106, § 36, as added Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925.)

REFERENCES IN TEXT

Title II of the Social Security Act referred to in subsec. (a), is classified to subchapter II of chapter 7 of Title 42, The Public Health and Welfare.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 35, 37 to 39, 41 to 44 of this Appendix.

§ 37. Insurance of property.

The Alien Property Custodian may procure insurance in such amounts, and from such insurers, as he believes will adequately protect him against loss in connection with property or interest or proceeds held by him. (Oct. 6, 1917, ch. 106, § 37, as added Dec. 18, 1941, ch. 593, title III, § 305, as added Aug. 8, 1946, ch. 878, § 1, 60 Stat. 925.)

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 36, 38 to 39, 41 to 44 of this Appendix.

§ 38. Shipment of relief supplies; definitions.

(a) Notwithstanding any other provision of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], it shall be lawful, at any time after the date of cessation of hostilities with any country with which the United States is at war, for any person in the United States to

donate, or otherwise dispose of to, and to transport or deliver to, any person in such country an article or articles (including food, clothing, and medicine) intended to be used solely to relieve human suffering.

(b) As used in this section—

(1) the term “person” means any individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic;

(2) with respect to any country with which the United States was at war on January 1, 1946, the term “date of cessation of hostilities” shall mean the date of enactment of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix];

(3) with respect to any other war the term “date of cessation of hostilities” shall mean the date specified by proclamation of the President or by a concurrent resolution of the two Houses of Congress whichever is the earlier.

(Oct. 6, 1917, ch. 106, § 38, formerly § —, as added May 10, 1946, ch. 260, 60 Stat. 182, numbered Aug. 8, 1946, ch. 878, § 3, 60 Stat. 930.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 37, 39, 41 to 44 of this Appendix.

§ 39. Retention of properties or interests of Germany and Japan and their nationals; compensation; proceeds covered into Treasury; transfer to War Claims Fund; limitation; payments to successor organizations receiving heirless property; reimbursement of Attorney General; deductions for certain administrative expenses; transfer to Federal Republic of Germany.

(a) No property or interest therein of Germany, Japan, or any national of either such country vested in or transferred to any officer or agency of the Government at any time after December 17, 1941, pursuant to the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], shall be returned to former owners thereof or their successors in interest, and the United States shall not pay compensation for any such property or interest therein. The net proceeds remaining upon the completion of administration, liquidation, and disposition pursuant to the provisions of this Act [said sections] of any such property or interest therein shall be covered into the Treasury at the earliest practicable date. Nothing in this section shall be construed to repeal or otherwise affect the operation of the provisions of section 32, 40, 41, 42 or 43 of this Act [section 32, 40, 41, 42 or 43 of this Appendix] or the Philippine Property Act of 1946.

(b) The Attorney General is authorized and directed, immediately upon the enactment of this subsection, to cover into the Treasury of the United States, for deposit into the War Claims Fund, from property vested in or transferred to him under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] such sums, not to exceed \$75,000.-000 in the aggregate, as may be necessary to satisfy unpaid awards heretofore or hereafter made under the War Claims Act of 1948 [sections 2001—2016 of this Appendix]. There is authorized to be appropriated to the Attorney General such sums as many be necessary to replace the sums deposited by him pursuant to the foregoing sentence. Immediately upon the enactment of this sentence [Oct. 22, 1962], the Attorney General shall cover into the Treasury of the United States, for deposit into the War Claims Fund, from property vested in or

transferred to him under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], the sum of \$500,000 to make payments authorized under section 32(h) of this Act [section 32(h) of this Appendix].

(c) The Attorney General is authorized and directed, immediately upon the enactment of this subsection, to cover into the Treasury of the United States, for deposit into the War Claims Fund, from property vested in or transferred to him under this Act [sections 2001 to 2016 of this Appendix], such sums, not to exceed \$3,750,000 in the aggregate, as may be necessary to satisfy unpaid awards heretofore or hereafter made under the War Claims Act of 1948, as amended [sections 2001 to 2016 of this Appendix]. There is authorized to be appropriated to the Attorney General such sums as may be necessary to replace the sums deposited by him pursuant to this subsection.

(d) The Attorney General is authorized and directed to cover into the Treasury from time to time for deposit in the War Claims Fund such sums from property vested in him or transferred to him under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] as he shall determine in his discretion not to be required to fulfill obligations imposed under this act [said sections] or any other provision of law, and not be the subject matter of any judicial action or proceeding. There shall be deducted from each such deposit 5 percentum thereof for expenses incurred by the Foreign Claims Settlement Commission and by the Treasury Department in the administration of title II of the War Claims Act of 1948 [sections 2017 to 2017p of this Appendix]. Such deductions shall be made before any payment is made pursuant to such title [said sections]. All amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(e) Notwithstanding any of the provisions of subsections (a) through (d) of this section, the Attorney General is hereby authorized to transfer the three paintings vested under Vesting Order Numbered 8107, dated January 28, 1947, to the Federal Republic of Germany, to be held in trust for eventual transfer to the Weimar Museum, Weimar, State of Thuringia, Germany, in accord with the terms of an agreement to be made between the United States and the Federal Republic of Germany. (Oct. 6, 1917, ch. 106, § 39, as added July 3, 1948, ch. 826 § 12, 62 Stat. 1246, and amended Aug. 7, 1953, ch. 344, 67 Stat. 461; Sept. 2, 1958, Pub. L. 85-884, 72 Stat. 1708; Oct. 22, 1962, Pub. L. 87-846, title II, §§ 202, 204(c), 76 Stat. 1113, 1115; Oct. 23, 1962, Pub. L. 87-861, § 1, 76 Stat. 1139; Oct. 4, 1966, Pub. L. 89-619, 80 Stat. 871.)

REFERENCES IN TEXT

Philippine Property Act of 1946, referred to in subsec. (a), is classified to subchapter V of chapter 15 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1966—Subsec. (e). Pub. L. 89-619 added subsec. (e).

1962—Subsec. (a). Pub. L. 87-861 provided that nothing in this section shall be construed to repeal or otherwise affect the operation of section 40, 41, 42, or 43 of this Appendix.

Subsec. (b). Pub. L. 87-846, § 204(c), required the Attorney General to cover \$500,000 into the Treasury for deposit into the War Claims Fund for payments to successor organizations receiving heirless property.

Subsec. (d). Pub. L. 87-846, § 202, added subsec. (d).

1953—Subsec. (c). Pub. L. 85-884 added subsec. (c)

1953—Act Aug. 7, 1953, designated existing provisions as subsec. (a), and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 38, 41 to 44, 2012, 2012a, 2017p of this Appendix.

§ 40. Intercustodial conflicts involving enemy property; authority of President to conclude; delegation of authority.

The President, or such officer or agency as he may designate, is authorized to conclude and give effect to agreements to further the amicable and expeditious settlement of intercustodial conflicts involving enemy property, subject to the following:

(1) The authority granted in this section shall extend only to agreements with governments with which the United States was not at war in World War II.

(2) Such agreements shall be in accordance with the policy of protecting and making available for utilization the American and nonenemy interests in such property and further the elimination of enemy interests in such property and the efficient administration and liquidation of enemy property in the United States.

(3) For the purposes of this section, the United States as to any intergovernmental agreements hereafter negotiated shall seek treatment equal to that accorded United States nationals for persons who, although citizens or residents of an enemy country before or during World War II, were deprived of full rights of citizenship or substantially deprived of liberty by laws, decrees, or regulations of such enemy country discriminating against racial, religious, or political groups: *Provided*, That on September 28, 1950, such persons were (1) permanent residents of the United States and (2) had declared their intention to become citizens of the United States in conformity with the provisions of the Nationality Act of 1940, as amended; and that such persons shall have acquired citizenship of the United States prior to the effective date of any intergovernmental agreement hereafter negotiated.

(4) Reimbursement to the United States by other governments pursuant to such agreements shall be administered as vested property: *Provided*, That nothing contained in this section shall hinder, restrict or limit the payment of claims from the War Claims Fund established by section 2012 of this Appendix.
(Sept. 28, 1950, ch. 1094, 64 Stat. 1079.)

REFERENCES IN TEXT

The Nationality Act of 1940, as amended, referred to in subd. (3), (formerly classified to chapter 11 of Title 8, Aliens and Nationality), was repealed by act June 27, 1952, ch. 477, § 403(a) (42), and is covered by chapter 12 of title 8.

CODIFICATION

Section was not enacted as part of the Trading With the Enemy Act of 1917, which comprises sections 1—6, 7—39 and 41—44 of this Appendix.

EX. ORD. No. 10244. AUTHORIZATION OF SECRETARY OF STATE AND ATTORNEY
GENERAL TO PERFORM CERTAIN FUNCTIONS

Ex. Ord. No. 10244, May 17, 1951, 16 F. R. 4639, provided:

1. The Secretary of State and the Attorney General are hereby jointly designated as the officers authorized to conclude and give effect to agreements relating to the settlement of intercustodial conflicts involving enemy property made pursuant to the said act of September 28, 1950 [this section], and to exercise all powers incident thereto which are conferred by such act, including, without limitation, the powers to receive, transfer, release or return property, interests therein, or proceeds thereof.

2. It is the policy of this order that the Secretary of State, with the concurrence of the Attorney General, shall perform all functions necessary or appropriate to give effect to any agreement made pursuant to the said act of September 28, 1950 [this section], with relation to the protection of American interests in property outside the United States, and that the Attorney General, with the concurrence of the Secretary of State, shall perform all functions necessary or appropriate to give effect to any such agreement with relation to property subject to the jurisdiction of the United States, and that all other functions relating to the effectuation of any such agreement shall be performed as may be agreed by the Secretary of State and the Attorney General. However, no action taken hereunder by either the Secretary of State or the Attorney General shall be considered to be invalid on the ground that under the provisions of this order such action was within the jurisdiction of the Secretary of State rather than the Attorney General, or vice versa, or that concurrence was not obtained, or that such action was not joint.

3. The Secretary of State and the Attorney General may each delegate to the other or to any other officer, person, or agency within his respective department such of his functions under this order as he may deem necessary.

4. Any money, property, or interest received as reimbursement by the United States by virtue of any agreement made pursuant to the said act of September 28, 1950 [this section], shall be administered and disposed of by the Attorney General as vested property pursuant to the said Trading With the Enemy Act, as amended [sections 1-6, 7-39, and 41-44 of this Appendix]. Any other money, property, or interest received by the Secretary of State or the Attorney General pursuant to any such agreement shall be administered and disposed of pursuant to the provisions of such agreement.

HARRY S. TRUMAN.

§ 41. Divestment of estates, trusts, insurance policies, annuities, remainders, pensions, workmen's compensation and veterans' benefits; exceptions; notice of divestment.

(a) Subject to the provisions of subsection (b) hereof [of this section], all rights and interests of individuals in estates, trusts, insurance policies, annuities, remainders, pensions, workmen's compensation and veterans' benefits vested under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] after December 17, 1941, which have not become payable or deliverable to or have not vested in possession in the Attorney General prior to December 31, 1961, are divested: *Provided*, That the provisions of this section shall not affect the right of the Attorney General to retain all such property rights and interests and to collect all income which is payable to or vested in possession in him prior to December 31, 1961.

(b) Nothing contained in this section shall divest or require the divestment of any portion of any such interest the beneficial owner of which is a natural person who has been convicted personally and by name by a court of competent jurisdiction of murder, ill treatment, or deportation for slave labor of prisoners of war, political opponents, hostages, or civilian population in occupied territories, or of murder

or ill treatment of military or naval persons, or of plunder or wanton destruction without justified military necessity.

(c) At the earliest practicable time after the effective date of this Act, the Attorney General shall transmit to the lawful owner or custodian of any interest divested by this section written notice of such divestment. (Oct. 6, 1917, ch. 106, § 40, as added Oct. 22, 1962, Pub. L. 87-846, title II, § 205, 76 Stat. 1115.)

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (c), probably means the effective date of Pub. L. 87-846, which was approved Oct. 22, 1962.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 39, 42 to 44 of this Appendix.

§ 42. Claims for proceeds from sale of certain certificates: jurisdiction, limitations; divestment of copyrights: definition of "copyrights," rights of licensees and assignees, reproduction rights of United States, transfer of interests, payment of royalties to Attorney General, suits for infringement.

(a) Notwithstanding any statute of limitation, lapse of time, any prior decision by any court of the United States, or any compromise, release or assignment to the Alien Property Custodian, jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment upon the claims against the United States for the proceeds received by the United States from the sale of the property vested under the provisions of the Trading With the Enemy Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] by vesting order numbered 33 relating to certificate numbers 104 to 121, inclusive, 125, 126, 128 to 134, inclusive, and 137 to 139, inclusive. Proceedings with respect to such claims may be instituted hereunder not later than two years after the date of the enactment of this section [October 22, 1962].

(b) As used in this section the word "copyrights" includes copyrights, claims of copyrights, right to copyrights, and rights to copyright renewals.

(c) All copyrights vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] subsequent to December 17, 1941, which have not been returned or otherwise disposed of under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix], except copyrights vested by vesting orders 128 (7 F.R. 7578), 13111 (14 F.R. 1730), 14349 (15 F.R. 1575), 17366 (16 F.R. 2483), and 17952 (16 F.R. 6162) and copyrights vested with respect to the motion picture listed last in exhibit A of vesting order 11803, as amended (13 F.R. 5167, 15 F.R. 1626), are divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 22, 1962], and the persons entitled thereto shall on that day succeed to the rights, privileges, and obligations arising out of such copyrights, subject, however, to—

(1) the rights of licensees under licenses issued by the Alien Property Custodian or the Attorney General in respect of such copyrights;

(2) the rights of assignees under assignments by the Alien Property Custodian or the Attorney General of interests in such licenses; and

(3) the right retained by the United States to reproduce, for its own use, or exhibit any divested copyrighted motion picture films.

The rights and interests remaining in the Attorney General under licenses issued by him or by the Alien Property Custodian in respect to copyrights divested hereunder are transferred, effective the day of divestment, to the persons entitled to such copyrights:

Provided, That all unpaid royalties or other income accrued in favor of the Attorney General under such licenses prior to the day of divestment shall be paid by the licensees to the Attorney General.

(d) All rights or interests vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] subsequent to December 17, 1941, arising out of prevesting contracts entered into with respect to copyrights, except—

(1) royalties or other income received by or accrued in favor of the Alien Property Custodian or the Attorney General under such contracts;

(2) rights of interests which have been returned or otherwise disposed of under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; and

(3) rights or interests vested by vesting orders 128 (7 F.R. 7578), 1311 (14 F.R. 1730), 14349 (15 F.R. 1575), and 17366 (16 F.R. 2483),

are divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 22, 1962], and the persons entitled to such rights or interests shall succeed thereto, subject to the right of the Attorney General to collect and receive all unpaid royalties or other income accrued in his favor under such prevesting contracts prior to the day of divestment.

(e) Nothing in this section shall be construed to transfer to a person entitled to a copyright divested hereunder the right of the Attorney General to sue for the infringement of such copyright during the period between (1) the vesting thereof or the vesting of rights and interests in a contract entered into with respect thereto, and (2) the day of divestment. The right to sue for infringement shall remain in the Attorney General. (Oct. 6, 1917, ch. 106, § 41, as added Oct. 22, 1962, Pub. L. 87-846, title II, § 206, 76 Stat. 1115, and amended Aug 26, 1964, Pub. L. 88-490, 78 Stat. 607.)

AMENDMENTS

1964—Subsec. (a). Pub. L. 88-490 substituted "render judgment upon" for "report to the Congress concerning" and "two years after the date of enactment of this section [Oct. 22, 1962]" for "one year after the date of the enactment of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 39, 41, 43 to 44 of this Appendix.

§ 43. Divestment of trademarks.

(a) Definition.

As used in this section, the word "trademarks" includes trademarks, trade names, and the goodwill of the business to which a trademark or trade name is appurtenant.

- (b) Effective date of divestment; rights of licensees; transfer of interests; payment of royalties to Attorney General.

Trademarks vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] subsequent to December 17, 1941, which have not been returned or otherwise disposed of under this Act [said sections], except trademarks vested by vesting orders 284, as amended (7 Fed. Reg. 9754, 9 Fed. Reg. 1038), 2354 (8 Fed. Reg. 14635), 5592 (11 Fed. Reg. 1675), and 18805 (17 Fed. Reg. 4364), are divested as a matter of grace, effective the ninety-first day after the day of enactment of this section [Oct. 23, 1962] and the persons entitled to such trademarks shall on that day succeed to the rights, privileges, and obligations arising therefrom, subject, however, to the rights of licensees under licenses issued by the Alien Property Custodian or the Attorney General in respect to such trademarks. The rights and interests remaining in the Attorney General under licenses issued by him or by the Alien Property Custodian in respect to trademarks divested hereunder are transferred, effective the day of divestment, to the persons entitled to such trademarks: *Provided*, That all unpaid royalties or other income accrued in favor of the Attorney General under such licenses prior to the day of divestment shall be paid by the licensees to the Attorney General.

- (c) Prevesting contracts; exceptions; payment of royalties to Attorney General.

All rights or interests vested in the Alien Property Custodian or the Attorney General under the provisions of this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] subsequent to December 17, 1941, arising out of prevesting contracts entered into with respect to trademarks, except—

(1) royalties or other income received by or accrued in favor of the Alien Property Custodian or the Attorney General under such contracts;

(2) rights or interests which have been returned or otherwise disposed of under this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix]; and

(3) rights or interests vested by vesting orders 284, as amended (7 Fed. Reg. 9754; 9 Fed. Reg. 1038), 2354 (8 Fed. Reg. 14635), 5592 (11 Fed. Reg. 1675), and 18805 (17 Fed. Reg. 4364), are divested as a matter of grace, effective the ninety-first day after the date of enactment of this section [Oct. 23, 1962], and the persons entitled to such rights or interests shall succeed thereto, subject to the right of the Attorney General to collect and receive all unpaid royalties or other income accrued in his favor under such prevesting contracts prior to the day of divestment.

- (d) Publication of ownership list in Federal Register; effective date of divestment; succession to ownership of equivalent trademarks.

The Attorney General shall within forty-five days after the date of enactment of this section [Oct. 23, 1962] publish in the Federal Register a list of trademarks which at the date of vesting in the Alien Property Custodian or Attorney General were owned by persons who were resident in or had their sole or primary seat in the area of Germany now in the Soviet Zone of Occupation or in the Soviet sector of Berlin or in German territory under provisional Soviet or Polish administration. Notwithstanding the provisions of subsection

(b) of this section, the effective date of divestment of the trademarks so listed and published in the Federal Register shall be the date of publication in the Federal Register by the Secretary of State of a certification identifying the cases in which an equivalent trademark has been registered in the Federal Republic of Germany for a person residing or having its sole or primary seat in the Federal Republic of Germany or in the western sectors of Berlin. In those cases of an equivalent trademark certified by the Secretary of State, the person registered by the Federal Republic of Germany as owner of such equivalent trademark shall succeed to the ownership of the divested trademark in the United States (Oct. 6, 1917, ch. 106, § 42, as added Oct. 23, 1962, Pub. L. 87-861, § 2, 76 Stat. 1139.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 39, 41 to 42, 44 of this Appendix.

§ 44. Motion picture prints, transfer of title.

(a) Prints in custody of Library of Congress; exception.

The Attorney General is authorized and directed to transfer to the Library of Congress the title to all prints of motion pictures now in the custody of the Library, which prints were vested in or transferred to the Alien Property Custodian or the Attorney General pursuant to this Act [sections 1 to 6, 7 to 39 and 41 to 44 of this Appendix] after December 17, 1941, except prints of motion pictures which are the subject of suits or claims under section 9(a) or section 32 of this Act [section 9(a) or section 32 of this Appendix].

(b) Prints in custody of Attorney General; exception; right of selection by Library of Congress; disposal of unselected prints by Attorney General.

Subject to the right of selection by the Library of Congress, the authorization, direction, and exception contained in subsection (a) hereof [of this section] shall apply with respect to such prints now in the custody of the Attorney General. Prints not selected by the Library of Congress may be disposed of by the Attorney General in any manner he deems appropriate.

(c) Retention, reproduction and disposal of prints by Library of Congress.

With respect to all prints concerning which title is transferred to the Library of Congress pursuant to subsections (a) and (b) hereof [of this section], the Library shall have complete discretion to retain such prints and to reproduce copies thereof, or to dispose of them in any manner it deems appropriate. (Oct. 6, 1917, ch. 106, § 43, as added Oct. 23, 1962, Pub. L. 87-861, § 2, 76 Stat. 1140.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1 to 6, 7 to 39, 41 to 42, 44 of this title.

The first part of the paper discusses the importance of the study of the history of the English language. It is noted that the English language has a long and rich history, and that the study of its development is of great interest to scholars. The paper then goes on to discuss the various factors that have influenced the development of the English language, including the influence of other languages, the influence of social and cultural changes, and the influence of technological advances.

The second part of the paper discusses the importance of the study of the history of the English language. It is noted that the English language has a long and rich history, and that the study of its development is of great interest to scholars. The paper then goes on to discuss the various factors that have influenced the development of the English language, including the influence of other languages, the influence of social and cultural changes, and the influence of technological advances.

The third part of the paper discusses the importance of the study of the history of the English language. It is noted that the English language has a long and rich history, and that the study of its development is of great interest to scholars. The paper then goes on to discuss the various factors that have influenced the development of the English language, including the influence of other languages, the influence of social and cultural changes, and the influence of technological advances.

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I. National Emergencies Act

[Public Law 94-412, approved Sept. 14, 1976]

AN ACT

To terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Emergencies Act".

TITLE I—TERMINATING EXISTING DECLARED EMERGENCIES

SEC. 101. (a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, United States Code, as a result of the existence of any declaration of national emergency in effect on the date of enactment of this Act are terminated two years from the date of such enactment. Such termination shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined on such date;

(2) any action or proceeding based on any act committed prior to such date; or

(3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words "any national emergency in effect" means a general declaration of emergency made by the President.

TITLE II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

SEC. 201. (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this Act. No law enacted after the date of enactment of this Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

SEC. 202. (a) Any national emergency declared by the President in accordance with this title shall terminate if—

(1) Congress terminates the emergency by concurrent resolution; or

(2) the President issues a proclamation terminating the emergency.

Any national emergency declared by the President shall be terminated on the date specified in any concurrent resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a concurrent resolution to determine whether that emergency shall be terminated.

(c) (1) A concurrent resolution to terminate a national emergency declared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(3) Such a concurrent resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(4) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports or concerning any delay in the consideration of such reports, such re-

port shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

(5) Paragraphs (1)–(4) of this subsection, subsection (b) of this section, and section 502(b) of this Act are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) Any national emergency declared by the President in accordance with this title, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

TITLE III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

SEC. 301. When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

TITLE IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF THE PRESIDENT

SEC. 401. (a) When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Executive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

(b) All such significant orders of the President, including Executive orders, and such rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

(c) When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, within ninety days after the end of each six-month period after such declaration, a

report on the total expenditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit a final report on all such expenditures.

TITLE V—REPEAL AND CONTINUATION OF CERTAIN EMERGENCY POWER AND OTHER STATUTES

SEC. 501. (a) Section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)) is amended—

(1) at the end of paragraph (9), by striking out “; or” and inserting in lieu thereof a period; and

(2) by striking out paragraph (10).

(b) Section 2667(b) of title 10 of the United States Code is amended—

(1) by inserting “and” at the end of paragraph (3);

(2) by striking out paragraph (4); and

(3) by redesignating paragraph (5) as (4).

(c) The joint resolution entitled “Joint resolution to authorize the temporary continuation of regulation of consumer credit”, approved August 8, 1947 (12 U.S.C. 249), is repealed.

(d) Section 5(m) of the Tennessee Valley Authority Act of 1933 as amended (16 U.S.C. 831d(m)) is repealed.

(e) Section 1383 of title 18, United States Code, is repealed.

(f) Section 6 of the Act entitled “An Act to amend the Public Health Service Act in regard to certain matters of personnel and administration, and for other purposes”, approved February 28, 1948, is amended by striking out subsections (b), (c), (d), (e), and (f) (42 U.S.C. 211b).

(g) Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742) is repealed.

(h) This section shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined at the time of repeal;

(2) any action or proceeding based on any act committed prior to repeal; or

(3) any rights or duties that matured or penalties that were incurred prior to repeal.

SEC. 502. (a) The provisions of this Act shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:

(1) Section 5(b) of the Act of October 6, 1917, as amended (12 U.S.C. 95a; 50 U.S.C. App. 5(b));

(2) Act of April 28, 1942 (40 U.S.C. 278b);

(3) Act of June 30, 1949 (41 U.S.C. 252);

(4) Section 3477 of the Revised Statutes, as amended (31 U.S.C. 203);

(5) Section 3737 of the Revised Statutes, as amended (41 U.S.C. 15);

(6) Public Law 85-804 (Act of Aug. 28, 1958, 72 Stat. 972; 50 U.S.C. 1431-1535);

(7) Section 2304(a)(1) of title 10, United States Code;

(8) Sections 3313, 6386(c), and 8313 of title 10, United States Code.

(b) Each committee of the House of Representatives and the Senate having jurisdiction with respect to any provision of law referred to in subsection (a) of this section shall make a complete study and investigation concerning that provision of law and make a report, including any recommendations and proposed revisions such committee may have, to its respective House of Congress within two hundred and seventy days after the date of enactment of this Act.

PART II

PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS ISSUED UNDER THE AUTHORITY OF SEC- TION 5(b) OF THE TRADING WITH THE ENEMY ACT

PART II

PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE
ORDERS ISSUED UNDER THE AUTHORITY OF SEC-
TION 5413 OF THE TRADEMARK WITH THE EMBLEM ACT

A. Presidential Proclamations

1. Proclamation of June 26, 1916 (unnumbered and untitled)

WHEREAS, by virtue of the authority vested in the President by the Act approved June 15, 1917, known as the Espionage Act, the President issued a proclamation dated August 27, 1917, which was amended by a subsequent proclamation dated September 7, 1917, prohibiting the export of coin, bullion and currency from the United States or its territorial possessions to certain specified countries except at such time or times and under such regulations and orders, and subject to such limitations and exceptions as the President shall prescribe; and

WHEREAS, by virtue of the authority vested in the President by the above mentioned Act of Congress, the President by Executive order dated September 7, 1917, directed that the regulations, orders, limitations and exceptions prescribed by him in relation to the export of coin, bullion and currency should be administered by the Secretary of the Treasury, and upon his recommendation prescribed certain regulations in relation thereto; and

WHEREAS, by Executive order, dated October 12, 1917, made under authority of the act aforesaid and of the act approved October 6, 1917, known as the Trading-With-the-Enemy Act, the President vested in the Secretary of the Treasury the executive administration of any investigation, regulation or prohibition of any transactions in foreign exchange, export, or earmarking of gold or silver coin, bullion or currency, transfers of credit in any form (other than credits relating solely to transactions to be executed wholly within the United States) and transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country or between residents of one or more foreign countries by any person within the United States, and further vested in the Secretary of the Treasury the authority and power to require any person engaged in any such transaction to furnish, under oath, complete information relative thereto, including the production of any books of account, contracts, letters, or other papers in connection therewith in the custody or control of such person, either before or after such transaction is completed; and

WHEREAS, by said Executive order, dated October 12, 1917, the President authorized and directed the Secretary of the Treasury for the purpose of such executive administration to take such measures, adopt such administrative procedure, and use such agency or agencies as he may from time to time deem necessary and proper for that purpose; and

WHEREAS, the Secretary of the Treasury, with the approval of the President, by order dated November 23, 1917, adopted certain administrative procedure for the executive administration, authority and power vested in the Secretary of the Treasury by said Executive order,

dated October 12, 1917, and designated the Federal Reserve Board to act as the agency of the Secretary of the Treasury, subject to the approval of the Secretary of the Treasury, to carry out such executive administration, authority and power vested in the Secretary of the Treasury as hereinbefore recited; and

WHEREAS, upon the recommendation of the Secretary of the Treasury and in order to vest all necessary authority in the Federal Reserve Board to act as the agency of the Secretary of the Treasury in the performance of certain duties therein imposed, the President did by Executive order, dated January 26, 1918, prescribe certain orders, rules and regulations in respect of such executive administration, authority and power amending the regulations theretofore prescribed by Executive order dated September 7, 1917; and

WHEREAS, in the judgment of the President, except as hereinafter stated, the public safety of the United States does not now require the prohibition of the exportation of coin, bullion and currency from the United States or its territorial possessions, nor the investigation, regulation or prohibition of any transaction in foreign exchange or the enforcement of any of the orders, rules, regulations and administrative procedure hereinbefore mentioned,

Now, therefore, I, Woodrow Wilson, President of the United States of America, under and by virtue of the authority vested in me by the acts aforesaid do hereby proclaim to all whom it may concern that, except as hereinafter specified, the aforementioned proclamations in so far as they prohibit the exportation of coin, bullion or currency, and the aforementioned power and authority vested in the Secretary of the Treasury and in the Federal Reserve Board, and all orders, rules and regulations issued or prescribed in connection therewith are hereby revoked and cancelled. In so far as the proclamations, orders, rules and regulations hereinbefore mentioned may be necessary to enable the Secretary of the Treasury and the Federal Reserve Board effectively to control in the manner therein provided, and to the extent deemed advisable by the Secretary of the Treasury and the Federal Reserve Board, all exportations of coin, bullion and currency to that part of Russia now under the control of the so-called Bolshevik Government, and any and all dealings or exchange transactions in Russian rubles or transfer of credit or exchange transactions with that part of Russia now under the control of the so-called Bolshevik Government, and any and all transfers of credit or exchange transactions with territories in respect of which such transactions are at present permitted only through the American Relief Administration, they are hereby continued in force and effect. In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the City of Paris this 26th day of June in the year of our Lord one thousand nine hundred and nineteen, and of the
 [SEAL] Independence of the United States of America the one hundred and forty third.

WOODROW WILSON.

By the President:

ROBERT LANSING,
Secretary of State.

2. Proclamation 2039—March 6, 1933: Bank Holiday, March 6–9, 1933, Inclusive

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS there have been heavy and unwarranted withdrawals of gold and currency from our banking institutions for the purpose of hoarding; and

WHEREAS continuous and increasingly extensive speculative activity abroad in foreign exchange has resulted in severe drains on the Nation's stocks of gold; and

WHEREAS these conditions have created a national emergency; and

WHEREAS it is in the best interests of all bank depositors that a period of respite be provided with a view to preventing further hoarding of coin, bullion or currency or speculation in foreign exchange and permitting the application of appropriate measures to protect the interests of our people; and

WHEREAS it is provided in Section 5(b) of the Act of October 6, 1917, (40 Stat. L. 411) as amended, "That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange and the export, hoarding, melting, or earmarkings of gold or silver coin or bullion or currency * * *"; and

WHEREAS it is provided in Section 16 of the said Act "that whoever shall willfully violate any of the provisions of this Act or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this Act, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, imprisoned for not more than ten years, or both; * * *";

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States of America, in view of such national emergency and by virtue of the authority vested in me by said Act and in order to prevent the export, hoarding, or earmarking of gold or silver coin or bullion or currency, do hereby proclaim, order, direct and declare that from Monday, the sixth day of March, to Thursday, the ninth day of March, Nineteen Hundred and Thirty Three, both dates inclusive, there shall be maintained and observed by all banking institutions and all branches thereof located in the United States of America, including the territories and insular possessions, a bank holiday, and that during said period all banking transactions shall be suspended. During such holiday, excepting as hereinafter provided, no such banking institution or branch shall pay out, export, earmark, or permit the withdrawal or transfer in any manner or by any device whatsoever, of any gold or silver coin or bullion or currency or take any other action

which might facilitate the hoarding thereof; nor shall any such banking institution or branch pay out deposits, make loans or discounts, deal in foreign exchange, transfer credits from the United States to any place abroad, or transact any other banking business whatsoever.

During such holiday, the Secretary of the Treasury, with the approval of the President and under such regulations as he may prescribe, is authorized and empowered (a) to permit any or all of such banking institutions to perform any or all of the usual banking functions, (b) to direct, require or permit the issuance of clearing house certificates or other evidences of claims against assets of banking institutions, and (c) to authorize and direct the creation in such banking institutions of special trust accounts for the receipt of new deposits which shall be subject to withdrawal on demand without any restriction or limitation and shall be kept separately in cash or on deposit in Federal Reserve Banks or invested in obligations of the United States.

As used in this order the term "banking institutions" shall include all Federal Reserve banks, national banking associations, banks, trust companies, savings banks, building and loan associations, credit unions, or other corporations, partnerships, associations or persons, engaged in the business of receiving deposits, making loans, discounting business paper, or transacting any other form of banking business.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the City of Washington this 6th day of March—1 A.M.
in the year of our Lord One Thousand Nine Hundred and
[SEAL] Thirty-three, and of the Independence of the United
States the One Hundred and Fifty-seventh.

FRANKLIN D. ROOSEVELT.

By the President:

CORDELL HULL,

Secretary of State.

3. Proclamation 2040—March 9, 1933: Continuing in Force the Bank Holiday Proclamation of March 6, 1933

BY THE PRESIDENT OF THE UNITED STATES

A PROCLAMATION

WHEREAS, on March 6, 1933, I, Franklin D. Roosevelt, President of the United States of America, by Proclamation declared the existence of a national emergency and proclaimed a bank holiday extending from Monday the 6th day of March to Thursday the 9th day of March, 1933, both dates inclusive, in order to prevent the export, hoarding or earmarking of gold or silver coin, or bullion or currency, or speculation in foreign exchange; and

WHEREAS, under the Act of March 9, 1933, all Proclamations heretofore or hereafter issued by the President pursuant to the authority conferred by section 5(b) of the Act of October 6, 1917, as amended, are approved and confirmed; and

WHEREAS, said national emergency still continues, and it is necessary to take further measures extending beyond March 9, 1933, in order to accomplish such purposes:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States of America, in view of such continuing national emergency and by virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917 (40 Stat. L., 411) as amended by the Act of March 9, 1933, do hereby proclaim, order, direct and declare that all the terms and provisions of said Proclamation of March 6, 1933, and the regulations and orders issued thereunder are hereby continued in full force and effect until further proclamation by the President.

IN WITNESS WHEREOF I have hereunto set my hand and have caused the seal of the United States to be affixed.

FRANKLIN D. ROOSEVELT.

4. Proclamation 2070—December 30, 1933: The Restoration of Non-member Banks to the Jurisdiction of their Own State Banking Authorities

BY THE PRESIDENT OF THE UNITED STATES

A PROCLAMATION

WHEREAS, on March 6, 1933, I, Franklin D. Roosevelt, President of the United States of America, by virtue of authority vested in me by the act of October 6, 1917 (40 Stat. L. 411), as amended, issued a proclamation declaring that an emergency existed and that a national banking holiday be observed;

WHEREAS, on March 9, 1933, I issued a proclamation continuing the terms and conditions of said proclamation of March 6, 1933, in full force and effect until further proclamation by the President;

WHEREAS, on March 10, 1933, I issued an Executive Order authorizing the appropriate authority having immediate supervision of banking institutions in each State or any place subject to the jurisdiction of the United States to permit any banking institution not a member of the Federal Reserve System to perform any or all of its usual banking functions except as otherwise provided;

WHEREAS, the Secretary of the Treasury, pursuant to authority granted by other provisions of the said Executive Order of March 10, 1933, has acted upon all requests for licensing of banks members of the Federal Reserve System;

WHEREAS, the Federal Deposit Insurance Corporation has acted upon all applications to it for membership in the Temporary Federal Deposit Insurance Fund as provided for in section 12B(y) of the Federal Reserve Act as amended by section 8 of the act of June 16, 1933, Public No. 66, 73d Congress, and has admitted to the said fund all applicant banks which are duly and properly qualified; and

WHEREAS, it is now appropriate that the banking authority in each State and any place subject to the jurisdiction of the United States should have and exercise the sole responsibility for, and control over, banking institutions not members of the Federal Reserve System:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, in order to assure that the banking authority in each State and in any place subject to the jurisdiction of the United States shall have and exercise the sole responsibility for, and control over, banking institutions which are not members of the Federal Reserve System, do hereby proclaim, order, direct, and declare that the proclamations of March 6, 1933, and March 9, 1933, and the Executive Order of March 10, 1933, and all orders and regulations pursuant thereto, are amended, effective the first day of January, nineteen hundred and thirty-four, to exclude from their scope banking institutions which are not members of the Federal Reserve System. Provided, however

That no banking institution shall pay out any gold coin, gold bullion, or gold certificates, except as authorized by the Secretary of the Treasury, nor allow the withdrawal of any currency for hoarding, nor engage in any transactions in foreign exchange except such as may be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for the fulfillment of contracts entered into prior to March 6, 1933.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

FRANKLIN D. ROOSEVELT.

5. Proclamation 2497—July 17, 1941: Authorizing a Proclaimed List of Certain Blocked Nationals and Controlling Certain Exports

I, Franklin D. Roosevelt, President of the United States of America, acting under and by virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917 (40 Stat. 415) as amended and Section 6 of the Act of July 2, 1940 (54 Stat. 714) as amended and by virtue of all other authority vested in me, and by virtue of the existence of a period of unlimited national emergency and finding that this Proclamation is necessary in the interest of national defense, do hereby order and proclaim the following:

SECTION 1. The Secretary of State, acting in conjunction with the Secretary of the Treasury, the Attorney General, the Secretary of Commerce, the Administrator of Export Control, and the Coordinator of Commercial and Cultural Relations Between the American Republics, shall from time to time cause to be prepared an appropriate list of—

(a) certain persons deemed to be, or to have been acting or purporting to act, directly or indirectly, for the benefit of, or under the direction of, or under the jurisdiction of, or on behalf of, or in collaboration with Germany or Italy or a national thereof; and

(b) certain persons to whom, or on whose behalf, or for whose account, the exportation directly or indirectly of any article or material exported from the United States, is deemed to be detrimental to the interest of national defense.

In similar manner and in the interest of national defense, additions to and deletions from such list shall be made from time to time. Such list and any additions thereto or deletions therefrom shall be filed pursuant to the provisions of the Federal Register Act and such list shall be known as "The Proclaimed List of Certain Blocked Nationals".

SECTION 2. Any person, so long as his name appears in such list, shall, for the purpose of Section 5(b) of the Act of October 6, 1917, as amended, and for the purpose of this Proclamation, be deemed to be a national of a foreign country, and shall be treated for all purposes under Executive Order No. 8389, as amended as though he were a national of Germany or Italy. All the terms and provisions of Executive Order No. 8389, as amended, shall be applicable to any such person so long as his name appears in such list, and to any property in which any such person has or has had an interest, to the same extent that such terms and provisions are applicable to nationals of Germany or Italy, and to property in which nationals of Germany or Italy have or have had an interest.

SECTION 3. The exportation from the United States directly or indirectly to, or on behalf of, or for the account of any person, so long as his name appears on such list, of any article or material the exportation

of which is prohibited or curtailed by any proclamation heretofore or hereafter issued under the authority of Section 6 of the Act of July 2, 1940, as amended, or of any other military equipment or munitions, or component parts thereof, or machinery, tools, or material, or supplies necessary for the manufacture, servicing, or operation thereof, is hereby prohibited under Section 6 of the Act of July 2, 1940, as amended, except (1) when authorized in each case by a license as provided for in Proclamation No. 2413 of July 2, 1940, or in Proclamation No. 2465 of March 4, 1941, as the case may be, and (2) when the Administrator of Export Control under my direction has determined that such prohibition of exportation would work an unusual hardship on American interests.

SECTION 4. The term "person" as used herein means an individual, partnership, association, corporation or other organization.

The term "United States" as used herein means the United States and any place subject to the jurisdiction thereof, including the Philippine Islands, the Canal Zone, and the District of Columbia and any other territory, dependency or possession of the United States.

SECTION 5. Nothing herein contained shall be deemed in any manner to limit or restrict the provisions of the said Executive Order No. 8389, as amended, or the authority vested thereby in the Secretary of the Treasury and the Attorney General. So far as the said Executive Order No. 8389, as amended, is concerned, "The Proclaimed List of Certain Blocked Nationals", authorized by this Proclamation, is merely a list of certain persons with respect to whom and with respect to whose property interests the public is specifically put on notice that the provisions of such Executive Order are applicable; and the fact that any person is not named in such list shall in no wise be deemed to mean that such person is not a national of a foreign country designated in such order, within the meaning thereof, or to affect in any manner the application of such order to such person or to the property interests of such person.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the city of Washington this 17th day of July, in the year of our Lord nineteen hundred and forty-one, and of the
 [SEAL] Independence of the United States of America the one hundred and sixty-sixth.

FRANKLIN D. ROOSEVELT.

By the President :

SUMNER WELLES,

Acting Secretary of State.

6. Proclamation 2725—April 7, 1947: Amending the Proclamations of March 6 and March 9, 1933, and the Executive Order of March 10, 1933, to Exclude From Their Scope Member Banks of the Federal Reserve System

BY THE PRESIDENT OF THE UNITED STATES

A PROCLAMATION

WHEREAS on March 10, 1933, the President of the United States, in pursuance of the program to permit resumption of banking operations following the Bank Holiday Proclamations No. 2039 of March 6 and No. 2040 of March 9, 1933, respectively, issued Executive Order No. 6073 which, among other things, authorized the Secretary of the Treasury to permit any member bank of the Federal Reserve System and any other banking institution organized under the laws of the United States to perform any or all of their usual banking functions except as otherwise prohibited; and

WHEREAS on December 30, 1933, the President of the United States issued Proclamation No. 2070 which excluded from the scope of the said proclamations of March 6 and March 9, 1933, and the Executive order of March 10, 1933, all banking institutions which were not members of the Federal Reserve System; and

WHEREAS by December 30, 1933, the Secretary of the Treasury had acted upon all requests for licensing of member banks of the Federal Reserve System; and

WHEREAS on December 31, 1945, the Secretary of the Treasury issued a General License to transact normal banking business to all banks thereafter authorized to begin business by the Comptroller of the Currency and to all State banks thereafter admitted to membership in the Federal Reserve System, and thereby dispensed with the requirement of an individual license for each new member bank of the Federal Reserve System; and

WHEREAS it is no longer necessary, or in the interest of government internal management, for the Secretary of the Treasury to license the transaction of normal banking business:

NOW, THEREFORE, I, Harry S. Truman, President of the United States of America, acting under and by virtue of the authority vested in me by section 5 (b) of the Trading with the Enemy Act of October 6, 1917, 40 Stat. 415, as amended, and section 4 of the act of March 9, 1933, 48 Stat. 2, and by virtue of all other authority vested in me, do hereby, in the interest of the internal management of the Government, proclaim, order, direct, and declare that the said proclamations of March 6 and March 9, 1933, and Executive order of March 10, 1933, as amended, are further amended to exclude from their scope banking institutions which are members of the Federal Reserve System: *Provided, however*, that no banking institution shall pay out any gold

coin, gold bullion, or gold certificates, except as authorized by the Secretary of the Treasury, or allow the withdrawal of any currency for hoarding.

This proclamation shall become effective as of March 15, 1947.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

HARRY S. TRUMAN.

B. Executive Orders

1. Executive Order 6073—March 10, 1933: Regulations Concerning the Operation of Banks

By virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917 (40 Stat. L., 411) as amended by the Act of March 9, 1933 and by Section 4 of the said Act of March 9, 1933, and by virtue of all other authority vested in me, I hereby issue the following Executive Order.

The Secretary of the Treasury is authorized and empowered under such regulations as he may prescribe to permit any member bank of the Federal Reserve System and any other banking institution organized under the laws of the United States, to perform any or all of their usual banking functions, except as otherwise prohibited.

The appropriate authority having immediate supervision of banking institutions in each State or any place subject to the jurisdiction of the United States is authorized and empowered under such regulations as such authority may prescribe to permit any banking institution in such State or place, other than banking institutions covered by the foregoing paragraph, to perform any or all of their usual banking functions, except as otherwise prohibited.

All banks which are members of the Federal Reserve System, desiring to reopen for the performance of all usual and normal banking functions, except as otherwise prohibited, shall apply for a license therefore to the Secretary of the Treasury. Such application shall be filed immediately through the Federal Reserve Banks. The Federal Reserve Bank shall then transmit such applications to the Secretary of the Treasury. Licenses will be issued by the Federal Reserve Bank upon approval of the Secretary of the Treasury. The Federal Reserve Banks are hereby designated as agents of the Secretary of the Treasury for the receiving of application and the issuance of licenses in his behalf and upon his instructions.

Until further order, no individual, partnership, association, or corporation, including any banking institution, shall export or otherwise remove or permit to be withdrawn from the United States or any place subject to the jurisdiction thereof any gold coin, gold bullion, or gold certificates, except in accordance with regulations prescribed by or under license issued by the Secretary of the Treasury.

No permission to any banking institution to perform any banking functions shall authorize such institution to pay out any gold coin, gold bullion or gold certificates except as authorized by the Secretary of the Treasury, nor to allow withdrawal of any currency for hoarding, nor to engage in any transaction in foreign exchange except such as may be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for the fulfillment of contracts entered into prior to March 6, 1933.

Every Federal Reserve Bank is authorized and instructed to keep itself currently informed as to transactions in foreign exchange entered into or consummated within its district and shall report to the Secretary of the Treasury all transactions in foreign exchange which are prohibited.

FRANKLIN D. ROOSEVELT.

2. Executive Order 6260—August 28, 1933: Relating to the Hoarding, Export, and Earmarking of Gold Coin, Bullion, or Currency and to Transactions in Foreign Exchange

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An act to provide relief in the existing national emergency in banking and for other purposes", I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following provisions for the investigation and regulation of the hoarding, earmarking, and export of gold coin, gold bullion, and gold certificates by any person within the United States or any place subject to the jurisdiction thereof; and for the investigation and regulation of transactions in foreign exchange and transfers of credit and the export or withdrawal of currency from the United States or any place subject to the jurisdiction thereof by any person within the United States or any place subject to the jurisdiction thereof.

SEC. 2. Definitions.—As used in this order the term "person" means an individual, partnership, association, or corporation; and the term "the United States" means the United States and any place subject to the jurisdiction thereof.

SEC. 3. Returns.—Within 15 days from the date of this order every person in possession of and every person owning gold coin, gold bullion, or gold certificates shall make under oath and file as hereinafter provided a return to the Secretary of the Treasury containing true and complete information relative thereto, including the name and address of the person making the return; the kind and amount of such coin, bullion, or gold certificates held and the location thereof; if held for another, the capacity in which held and the person for whom held, together with the post-office address of such person; and the nature of the transaction requiring the holding of such coin, bullion, or certificates and a statement explaining why such transaction cannot be carried out by the use of currency other than gold certificates; provided that no returns are required to be filed with respect to—

a. Gold coin, gold bullion, and gold certificates in an amount not exceeding in the aggregate \$100 belonging to any one person;

b. Gold coin having a recognized special value to collectors of rare and unusual coin;

c. Gold coin, gold bullion, and gold certificates acquired or held under a license heretofore granted by or under authority of the Secretary of the Treasury; and

d. Gold coin, gold bullion, and gold certificates owned by Federal Reserve banks.

Such return required to be made by an individual shall be filed with the collector of internal revenue for the collection district in which

such individual resides, or, if such individual has no legal residence in the United States, then with the collector of internal revenue at Baltimore, Md. Such return required to be made by a partnership, association, or corporation shall be filed with the collector of internal revenue of the collection district in which is located the principal place of business or principal office or agency of such partnership, association, or corporation, or, if it has no principal place of business or principal office or agency in the United States, then with the collector of internal revenue at Baltimore, Md. Such return required to be made by an individual residing in Alaska shall be filed with the collector of internal revenue at Seattle, Wash. Such return required to be made by a partnership, association, or corporation having its principal place of business or principal office or agency in Alaska shall be filed with the collector of internal revenue at Seattle, Wash.

The Secretary of the Treasury may grant a reasonable extension of time for filing a return, under such rules and regulations as he shall prescribe. No such extension shall be for more than 45 days from the date of this Executive order. An extension granted hereunder shall be deemed a license to hold for a period ending 15 days after the expiration of the extension.

The returns required to be made and filed under this section shall constitute public records; but they shall be open to public inspection only upon order of the President and under rules and regulations prescribed by the Secretary of the Treasury.

A return made and held in accordance with this section by the owner of the gold coin, gold bullion, and gold certificates described therein, or his duly authorized agent, shall be deemed an application for the issuance under section 5 hereof of a license to hold such coin, bullion, and certificates.

SEC. 4. Acquisition of gold coin and gold bullion.—No person other than a Federal Reserve bank shall after the date of this order acquire in the United States any gold coin, gold bullion, or gold certificates except under license therefor issued pursuant to this Executive Order, provided that member banks of the Federal Reserve System may accept delivery of such coin, bullion, and certificates for surrender promptly to a Federal Reserve bank, and provided further that persons requiring gold for use in the industry, profession, or art in which they are regularly engaged may replenish their stocks of gold up to an aggregate amount of \$100, by acquisitions of gold bullion held under licenses issued under section 5(b), without necessity of obtaining a license for such acquisitions.

The Secretary of the Treasury, subject to such further regulations as he may prescribe, shall issue licenses authorizing the acquisition of—

a. Gold coin or gold bullion which the Secretary is satisfied is required for a necessary and lawful transaction for which currency other than gold certificates cannot be used, by an applicant who establishes that since March 9, 1933, he has surrendered an equal amount of gold coin, gold bullion, or gold certificates to a banking institution in the continental United States or to the Treasurer of the United States;

b. Gold coin or gold bullion which the Secretary is satisfied is required by an applicant who holds a license to export such an

amount of gold coin or gold bullion issued under subdivision (c) or (d) of section 6 hereof, and

c. Gold bullion which the Secretary, or such agency as he may designate, is satisfied is required for legitimate and customary use in industry, profession, or art by an applicant regularly engaged in such industry, profession, or art, or in the business of furnishing gold therefor.

Licenses issued pursuant to this section shall authorize the holder to acquire gold coin and gold bullion only from sources specified by the Secretary of the Treasury in regulations issued hereunder.

SEC. 5. Holding of gold coin, gold bullion, and gold certificates.—After 30 days from the date of this order no person shall hold in his possession or retain any interest, legal or equitable, in any gold coin, gold bullion, or gold certificates situated in the United States and owned by any person subject to the jurisdiction of the United States, except under license therefor issued pursuant to this Executive Order; provided, however, that licenses shall not be required in order to hold in possession or retain an interest in gold coin, gold bullion, or gold certificates with respect to which a return need not be filed under section 3 hereof.

The Secretary of the Treasury, subject to such further regulations as he may prescribe, shall issue licenses authorizing the holding of—

a. Gold coin, gold bullion, and gold certificates, which the Secretary is satisfied are required by the person owning the same for necessary and lawful transactions for which currency, other than gold certificates, cannot be used;

b. Gold bullion which the Secretary, or such agency as he may designate, is satisfied is required for legitimate and customary use in industry, profession, or art by a person regularly engaged in such industry, profession, or art or in the business of furnishing gold therefor;

c. Gold coin and gold bullion earmarked or held in trust since before April 20, 1933, for a recognized foreign government or foreign central bank or the Bank for International Settlements; and

d. Gold coin and gold bullion imported for reexport or held pending action upon application for export licenses.

SEC. 6. Earmarking and exporting of gold coin and gold bullion.—After the date of this order no person shall earmark or export any gold coin, gold bullion, or gold certificates from the United States, except under license therefor issued by the Secretary of the Treasury pursuant to the provisions of this order.

The Secretary of the Treasury, in his discretion and subject to such regulations as he may prescribe, may issue licenses authorizing—

a. The export of gold coin or gold bullion earmarked or held in trust since before April 20, 1933, for a recognized foreign government, foreign central bank, or the Bank for International Settlements;

b. The export of gold, (i) imported for reexport, (ii) refined from gold-bearing materials imported by the applicant under an agreement to export gold, or (iii) in bullion containing not more than 5 ounces of gold per ton;

c. The export of gold coin or gold bullion to the extent actually required for the fulfillment of a contract entered into by the applicant prior to April 20, 1933; but not in excess of the amount of the gold coin, gold bullion, and gold certificates surrendered by the applicant on or after March 9, 1933, to a banking institution in the continental United States or to the Treasurer of the United States; and

d. The earmarking for foreign account and/or export of gold coin or gold bullion, with the approval of the President, for transactions which the Secretary of the Treasury may deem necessary to promote the public interest.

Sec. 7. United States possessions—shipments thereto.—The provisions of section 3 and 5 of this order shall not apply to gold coin, gold bullion, or gold certificates which is situated in the Philippine Islands, American Samoa, Guam, Hawaii, Panama Canal Zone, Puerto Rico, or the Virgin Islands of the United States, and is owned by a person not domiciled in the continental United States. The provisions of section 4 shall not apply to acquisitions by persons within the Philippine Islands, American Samoa, Guam, Hawaii, Panama Canal Zone, Puerto Rico, or the Virgin Islands of the United States of gold coin or gold bullion which has not been taken or sent thereto since April 5, 1933, from the continental United States or any place subject to the jurisdiction thereof.

Sec. 8. Until further order, the Secretary of the Treasury is authorized, through any agency that he may designate, to investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit from any banking institution within the United States to any foreign branch or office of such banking institution or to any foreign bank or banker, and the export or withdrawal of currency from the United States, by any person within the United States; and the Secretary of the Treasury may require any person engaged in any transaction referred to herein to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person either before or after such transaction is completed.

Sec. 9. The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this order. Such regulations may provide for the detention in the United States of any gold coin, gold bullion, or gold certificates sought to be transported beyond the limits of the continental United States, pending an investigation to determine if such coin, bullion, or certificates are held or are to be acquired in violation of the provisions of this Executive order. Licenses and permits granted in accordance with the provisions of this order and the regulations prescribed hereunder, may be issued through such officers or agencies as the Secretary may designate.

Sec. 10. Whoever willfully violates any provision of this Executive order or of any license, order, rule, or regulation issued or prescribed hereunder, shall, upon conviction, be fined not more than \$10,000, or if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who know-

ingly participates in such violation may be punished by a like fine, imprisonment, or both.

SEC. 11. The Executive orders of April 5, 1933, forbidding the hoarding of gold coin, gold bullion, and gold certificates, and April 20, 1933, relating to foreign exchange and the earmarking and export of gold coin or bullion or currency, respectively, are hereby revoked. The revocation of such prior Executive orders shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal cause prior to said revocation, but all liabilities under said Executive orders shall continue and may be enforced in the same manner as if said revocation had not been made. This Executive order and any regulations or licenses issued hereunder may be modified or revoked at any time.

FRANKLIN D. ROOSEVELT.

3. Executive Order 6359—October 25, 1933: Relating to Gold Recovered From Natural Deposits

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An Act to Provide Relief in the Existing National Emergency in Banking and for other Purposes", I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby issue the following Executive Order:

SECTION 1. The Executive Order of August 29, 1933, relating to the sale and export of gold recovered from natural deposits, is hereby revoked: *Provided, however*, That the Secretary of the Treasury is authorized to sell in accordance therewith gold received on consignment for sale on or before the date of this Executive Order.

SEC. 2. The United States mints and assay offices are hereby authorized, subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, to receive on consignment gold which the mint or assay office to which the gold is delivered is satisfied has been recovered from natural deposits in the United States or any place subject to the jurisdiction thereof.

SEC. 3. The Reconstruction Finance Corporation is authorized, subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, to acquire gold which has been received on consignment by a United States mint or assay office, and to hold, earmark for foreign account, export, or otherwise dispose of such gold.

SEC. 4. The Executive Order of August 28, 1933, relating to the hoarding, export, and earmaking of gold coin, bullion, or currency and to transactions in foreign exchange, is hereby amended to permit, subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, the export of articles fabricated from gold.

SEC. 5. The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this Executive Order.

SEC. 6. This Executive Order and any regulations issued hereunder may be modified or revoked at any time.

FRANKLIN D. ROOSEVELT.

4. Executive Order 6556—January 12, 1934: Amendment of Executive Order No. 6260 of August 28, 1933

The first paragraph of section 4 of Executive Order No. 6260 of August 28, 1933, relating to the hoarding, export, and earmarking of gold coin, bullion, or currency, and to transactions in foreign exchange is hereby amended to read as follows:

SEC. 4. Acquisition of gold coin and gold bullion.—No person other than a Federal Reserve bank shall after the date of this order acquire in the United States any gold coin, gold bullion, or gold certificates except under license therefor issued pursuant to this Executive order, provided that member banks of the Federal Reserve System may accept delivery of such coin, bullion, and certificates for surrender promptly to a Federal Reserve bank, and provided further that persons requiring gold for use in the industry, profession, or art in which they are regularly engaged may replenish their stocks of gold up to an aggregate amount of \$100, by acquisitions of gold bullion held under licenses issued under section 5(b), without necessity of obtaining a license for such acquisitions, and provided further that collectors of rare and unusual coin may acquire from one another and hold without necessity of obtaining a license therefor gold coin having a recognized special value to collectors of rare and unusual coin (but not including quarter eagles, otherwise known as \$2.50 pieces, unless held, together with rare and unusual coin, as part of a collection for historical, scientific, or numismatic purposes, containing not more than four quarter eagles of the same date and design and struck by the same mint).

Section 6 of the aforesaid order is hereby amended by adding thereto the following subparagraph:

(e) Through any agency that he may designate, the export of gold coin having a recognized special value to collectors of rare and unusual coin (but not including quarter eagles, otherwise known as \$2.50 pieces, unless held, together with rare and unusual coin, as part of a collection for historical, scientific, or numismatic purposes, containing not more than four quarter eagles of the same date and design and struck by the same mint).

FRANKLIN D. ROOSEVELT.

5. Executive Order 6558—January 15, 1934: Relating to Receipt of Gold on Consignment by the Mints and Assay Offices

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933, entitled "An Act to Provide Relief in the Existing National Emergency in Banking and for other Purposes", I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following regulations for receiving gold on consignment for sale:

SECTION 1. The United States mints and assay offices are hereby authorized subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, to receive on consignment gold which the mint or assay office concerned is satisfied has not been held in noncompliance with the Executive orders, or the orders of the Secretary of the Treasury, issued under sections 2 and 3 of the act of March 9, 1933, or in noncompliance with any regulations or rulings made thereunder or licenses issued pursuant thereto.

SEC. 2. The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this Executive order.

SEC. 3. This Executive order and any regulations issued hereunder may be modified or revoked at any time.

FRANKLIN D. ROOSEVELT.

6. Executive Order 6559—January 15, 1934: Amending the Executive Order of March 10, 1933, and the Proclamation of December 30, 1933, Concerning the Operation of Banks

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917 (40 Stat. L. 411), as amended by the act of March 9, 1933, and by section 4 of said act of March 9, 1933, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby issue the following Executive order:

SECTION 1. The last two paragraphs of the Executive Order of March 10, 1933, concerning the operation of banks, are amended, effective from the date of this order, by striking out the following:

“nor to engage in any transaction in foreign exchange except such as may be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for the fulfillment of contracts entered into prior to March 6, 1933.

“Every Federal Reserve bank is authorized and instructed to keep itself currently informed as to transactions in foreign exchange entered into or consummated within its district and shall report to the Secretary of the Treasury all transactions in foreign exchange which are prohibited.”

The Secretary of the Treasury is authorized to amend the licenses heretofore issued with his approval by the Federal Reserve banks under the Executive Order of March 10, 1933, by issuing through the Federal Reserve banks amendatory licenses removing the restriction upon transactions in foreign exchange contained in the licenses heretofore issued.

SEC. 2. The Proclamation of December 30, 1933, relating to the licensing of banking institutions which are not members of the Federal Reserve System, is amended, effective from the date of this order, by striking out the following:

“nor to engage in any transaction in foreign exchange except such as may be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for the fulfillment of contracts entered into prior to March 6, 1933.”

SEC. 3. The amendment of such Executive Order of March 10, 1933, or of any licenses issued thereunder, and the amendment of such Proclamation of December 30, 1933, shall not affect any act done, or any order, decision, or finding made, or relieve any person from the consequences of any unauthorized act committed prior to the date of this Executive Order; nor shall the amendment of the Executive Order of March 10, 1933, or the proclamation of December 30, 1933, relieve any person from the obligation of complying with the terms of the

Executive Order of January 15, 1934, relating to the export of coin and currency and transactions in foreign exchange, or the regulations or licenses issued thereunder, or of any other provision of law affecting transactions in foreign exchange.

FRANKLIN D. ROOSEVELT.

7. Executive Order 6560—January 15, 1934: Regulating Transactions in Foreign Exchange, Transfers of Credit, and the Export of Coin and Currency

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917 (40 Stat. L., 411) as amended by section 2 of the act of March 9, 1933, entitled "An Act to provide relief in the existing national emergency in banking and for other purposes", I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency continues to exist, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following regulations for the investigation, regulation, and prohibition of transactions in foreign exchange, transfers of credit between or payments by banking institutions as herein defined, and export of currency or silver coin, by any person within the United States or any place subject to the jurisdiction thereof:

SECTION 1. Every transaction in foreign exchange, transfer of credit between any banking institution within the United States and any banking institution outside of the United States (including any principal, agent, home office, branch, or correspondent outside of the United States of a banking institution within the United States), and the export or withdrawal from the United States of any currency or silver coin which is legal tender in the United States, by any person within the United States, is hereby prohibited, except under license therefor issued pursuant to this Executive Order: *Provided, however, That, except as prohibited under regulations prescribed by the Secretary of the Treasury, foreign exchange transactions and transfers of credit may be carried out without a license for (a) normal commercial or business requirements, (b) reasonable traveling and other personal requirements, or (c) the fulfillment of legally enforceable obligations incurred prior to March 9, 1933.*

SEC. 2. Possessions of the United States.—Except as prohibited in regulations prescribed by the Secretary of the Treasury, transfers of credit between banking institutions in the continental United States and banking institutions in other places subject to the jurisdiction of the United States (including principals, agents, home offices, branches, or correspondents in such other places, of banking institutions within the continental United States), may be carried out without a license.

SEC. 3. Licenses.—The Secretary of the Treasury, acting directly or through any agencies that he may designate, and the Federal Reserve banks acting in accordance with such rules and regulations as the Secretary of the Treasury may from time to time prescribe, are hereby designated as agencies for the granting of licenses as hereinafter provided. Licenses may be granted authorizing such transactions in foreign exchange, transfers of credit, and exports of currency (other than gold certificates) or silver coin in such specific cases or classes of cases as the Secretary of the Treasury may determine in regulations prescribed hereunder and rulings made pursuant thereto.

SEC. 4. Reports.—The Federal Reserve banks shall keep themselves currently informed as to foreign exchange transactions entered into or consummated, and transfers of credit made between banking institutions outside of the continental United States and banking institutions, in their districts, and report to the Secretary of the Treasury all transactions in foreign exchange and all such transfers of credit not permitted under sections 1 or 2 hereof which are effected or attempted in their districts without a license.

SEC. 5. Regulations.—The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of this order, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by the Federal Reserve banks and by such other agencies as the Secretary of the Treasury may designate; and the Secretary of the Treasury may require any person engaged in any transaction, transfer, export, or withdrawal referred to in this Executive Order to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person either before or after such transaction, transfer, export, or withdrawal is completed.

SEC. 6. Penalties.—Whoever willfully violates or knowingly participates in the violation of any provision of this Executive order or of any license, order, rule, or regulation issued or prescribed hereunder, shall be subject to the penalties provided in section 5(b) of the act of October 6, 1917, as amended by section 2 of the act of March 9, 1933.

SEC. 7. Definitions.—As used in this Executive Order the term "United States" means the United States and any place subject to the jurisdiction thereof; the term "continental United States" means the States of the United States, the District of Columbia, and the Territory of Alaska; the term "person" means an individual, partnership, association, or corporation; and the term "banking institution" includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing and selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent; and, for the purposes of this order, each home office, branch, principal, agent, or correspondent of any person so engaged shall be regarded as a separate "banking institution".

SEC. 8. Section 8 of the Executive Order of August 28, 1933, relating to the hoarding, export, and earmarking of gold coin, bullion, or currency and to transactions in foreign exchange, is hereby revoked.

This Executive Order and any rules, regulations, or licenses prescribed or issued hereunder may be modified or revoked at any time.

FRANKLIN D. ROOSEVELT.

8. Executive Order 8389—April 10, 1940: Amendment of Executive Order No. 6560, Dated January 15, 1934, Regulating Transactions in Foreign Exchange, Transfers of Credit, and the Export of Coin and Currency

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended by section 2 of the Act of March 9, 1933 (48 Stat. 1) and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 6560, dated January 15, 1934, regulating transactions in foreign exchange transfers of credit, and the export of coin and currency by adding the following sections after section 8 thereof:

"SEC. 9. Notwithstanding any of the provisions of sections 1 to 8, inclusive, of this Order, all of the following are prohibited, except as specifically authorized in regulations or licenses issued by the Secretary of the Treasury pursuant to this Order, if involving property in which Norway or Denmark or any national thereof has at any time on or since April 8, 1940, had any interest of any nature whatsoever, direct or indirect:

"A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent, outside of the United States, of a banking institution within the United States);

"B. All payments by any banking institution within the United States;

"C. All transactions in foreign exchange by any person within the United States;

"D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States; and

"E. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

"SEC. 10. Additional Reports. A. Reports under oath shall be filed, on such forms, at such time or times and from time to time, and by such persons, as provided in regulations prescribed by the Secretary of the Treasury, with respect to all property of any nature whatsoever of which Norway or Denmark or any national thereof is or was the owner, or in which Norway or Denmark or any national thereof has or had an interest of any nature whatsoever, direct or indirect and with respect to any acquisition, transfer, disposition, or any other dealing in such property.

"B. The Secretary of the Treasury may require the furnishing under oath of additional and supplemental information including the production of any books of account, contracts, letters or other papers with respect to the matters concerning which reports are required to be filed under this Section.

"SEC. 11. Additional Definitions. In addition to the definitions contained in Section 7, the following definitions are prescribed:

"A. The terms 'Norway' and 'Denmark', respectively, mean the State and the Government of Norway and Denmark on April 8, 1940, and any political subdivisions, agencies and instrumentalities thereof, including territories, dependencies and possessions, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing. The terms 'Norway' and 'Denmark', respectively, shall also include any and all other governments (including political subdivisions, agencies, and instrumentalities thereof and persons acting or purporting to act directly or indirectly for the benefit or on behalf thereof) to the extent and only to the extent that such governments exercise or claim to exercise *de jure* or *de facto* sovereignty over the area which, on April 8, 1940, constituted Norway or Denmark.

"B. The term 'national' of Norway or Denmark shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of Norway or Denmark at any time since April 8, 1940, but shall not include any individual domiciled and residing in the United States on April 8, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on April 8, 1940, had its principal place of business in Norway or Denmark of which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of Norway or Denmark at any time on or since April 8, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

"C. The term 'banking institution' as used in section 9 includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate 'banking institution'.

"SEC. 12. Additional Regulations. The Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of sections 9 to 11, inclusive, of this Order, and except as so modified are hereby continued in full force and effect. The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of sections 9 to 11, inclusive, of this Order as amended, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by such agencies as the Secretary of the Treasury may designate."

FRANKLIN D. ROOSEVELT.

9. Executive Order 8405—May 10, 1940: Amendment of Executive Order No. 8389 of April 10, 1940, Amending Executive Order No. 6560, Dated January 15, 1934

Executive Order No. 8389 of April 10, 1940, is amended to read as follows:

"AMENDMENT OF EXECUTIVE ORDER NO. 6560, DATED JANUARY 15, 1934, REGULATING TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND THE EXPORT OF COIN AND CURRENCY

"By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 6560, dated January 15, 1934, regulating transactions in foreign exchange, transfers of credit, and the export of coin and currency by adding the following sections after section 8 thereof:

"SEC. 9. Notwithstanding any of the provisions of sections 1 to 8, inclusive, of this order, all of the following are prohibited, except as specifically authorized in regulations or licenses issued by the Secretary of the Treasury pursuant to this order, if involving property in which Norway or Denmark or any national thereof has at any time on or since April 8, 1940, had any interest of any nature whatsoever, direct or indirect, or if involving property in which the Netherlands, Belgium or Luxembourg or any national thereof has at any time on or since May 10, 1940, had any interest of any nature whatsoever, direct or indirect:

"A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside of the United States, of a banking institution within the United States);

"B. All payments by or to any banking institution within the United States;

"C. All transactions in foreign exchange by any person within the United States;

"D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

"E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

"F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

"SEC. 10. Additional Reports. A. Reports under oath shall be filed on such forms at such time, or times and from time to time, and by

such persons, as provided in regulations prescribed by the Secretary of the Treasury, with respect to all property of any nature whatsoever of which Norway, Denmark, the Netherlands, Belgium, or Luxembourg or any national thereof is or was the owner, or in which Norway, Denmark, the Netherlands, Belgium or Luxembourg or any national thereof has or had an interest of any nature whatsoever, direct or indirect, and with respect to any acquisition, transfer, disposition, or any other dealing in such property.

"B. The Secretary of the Treasury may require the furnishing under oath of additional and supplemental information, including the production of any books of account, contracts, letters or other papers with respect to the matters concerning which reports are required to be filed under this section.

"SEC. 11. Additional Definitions. In addition to the definitions contained in section 7, the following definitions are prescribed:

"A. The terms "Norway" and "Denmark", respectively, mean the State and the Government of Norway and Denmark on April 8, 1940, the terms "the Netherlands", "Belgium", and "Luxembourg", mean the State and the Government of the Netherlands, Belgium and Luxembourg on May 10, 1940, and any political subdivisions, agencies and instrumentalities of any of the foregoing, including territories, dependencies and possessions, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing. The terms "Norway", "Denmark", "the Netherlands", "Belgium" and "Luxembourg" respectively, shall also include any and all other governments (including political subdivisions, agencies, and instrumentalities thereof and persons acting or purporting to act directly or indirectly for the benefit or on behalf thereof) to the extent and only to the extent that such governments exercise or claim to exercise *de jure* or *de facto* sovereignty over the area which, on April 8, 1940, constituted Norway and Denmark and which on May 10, 1940, constituted the Netherlands, Belgium and Luxembourg.

"B. The term "national" of Norway or Denmark shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of Norway or Denmark at any time on or since April 8, 1940, but shall not include any individual domiciled and residing in the United States on April 8, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on April 8, 1940, had its principal place of business in Norway or Denmark or which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of Norway or Denmark at any time on or since April 8, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

"C. The term "national" of the Netherlands, Belgium or Luxembourg shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of the Netherlands, Belgium or Luxembourg at any time on

or since May 10, 1940, but shall not include any individual domiciled and residing in the United States on May 10, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on May 10, 1940, had its principal place of business in the Netherlands, Belgium or Luxembourg, or which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of the Netherlands, Belgium or Luxembourg, at any time on or since May 10, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

"D. The term "banking institution" as used in section 9 includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution".

"SEC. 12. Additional Regulations. The Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of sections 9 to 11, inclusive, of this Order, and except as so modified are hereby continued in full force and effect. The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of sections 9 to 11, inclusive, of this Order as amended, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by such agencies as the Secretary of the Treasury may designate.'"

FRANKLIN D. ROOSEVELT.

10. Executive Order 8446—June 17, 1940: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which France or any national thereof has at any time on or since June 17, 1940, had any interest of any nature whatsoever, direct or indirect; except that, in defining "France" and "national" of France the date "June 17, 1940" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT.

11. Executive Order 8484—July 15, 1940: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof, to, and with respect to, property in which Latvia, Estonia or Lithuania or any national thereof has at any time on or since July 10, 1940, had any interest of any nature whatsoever, direct or indirect; except that, in defining "Latvia", "Estonia", "Lithuania" and "national thereof the date "July 10, 1940" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT.

12. Executive Order 8493—July 25, 1940: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, amending Executive Order No. 6560 of January 15, 1934, by adding the following sections after section 12 thereof:

"SEC. 13A. The following are prohibited except as specifically authorized by the Secretary of the Treasury by means of rulings, regulations, instructions, licenses, or otherwise:

"(1) The acquisition, disposition or transfer of, or other dealing in, or with respect to, any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country designated in this order, or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign country, or where the attendant circumstances disclose or indicate that such a stamp or seal may, at any time, have been stamped, imprinted, affixed, or attached thereto.

"(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States.

"B. The Secretary of the Treasury may investigate, regulate, or prohibit under such rulings, regulations, or instructions as he may prescribe, by means of licenses or otherwise, the sending, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States. The provisions of General Ruling No. 5 of June 6, 1940, and all instructions issued pursuant thereto, are hereby continued in full force and effect, subject to amendment, modification or revocation pursuant to the provisions of this order.

"C. In the case of any transaction covered by this section, an application for license may be filed in the manner indicated in the Regulations of April 10, 1940, as amended, issued pursuant to this order.

"D. The Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of this section.

"SEC. 14. The Secretary of the Treasury may require any person to furnish under oath, complete information relative to any transaction referred to in this order, or with respect to any property in which any foreign country designated in this order, or any national thereof, has

any interest, including the production of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed."

FRANKLIN D. ROOSEVELT.

13. Executive Order 8565—October 10, 1940: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which Rumania or any national thereof has at any time on or since October 9, 1940, had any interest of any nature whatsoever, direct or indirect; except that, in defining "Rumania" and "national" of Rumania, the date "October 9, 1940" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT.

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14. Executive Order 8701—March 4, 1941: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which Bulgaria or any national thereof has at any time on or since March 4, 1941, had any interest of any nature whatsoever, direct or indirect: except that, in defining "Bulgaria" and "national" of Bulgaria the date "March 4, 1941" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT.

15. Executive Order 8711—March 13, 1941: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which Hungary or any national thereof has at any time on or since March 13, 1941, had any interest of any nature whatsoever, direct or indirect; except that, in defining "Hungary" and "national" of Hungary the date "March 13, 1941" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT.

16. Executive Order 8721—March 24, 1941: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which Yugoslavia or any national thereof has at any time on or since March 24, 1941, had any interest of any nature whatsoever, direct or indirect; except that, in defining "Yugoslavia" and "national" of Yugoslavia the date "March 24, 1941" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT.

17. Executive Order 8746—April 28, 1941: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, so as to extend all the provisions thereof to, and with respect to, property in which Greece or any national thereof has at any time on or since April 28, 1941, had any interest of any nature whatsoever, direct or indirect; except that, in defining "Greece" and "national" of Greece, the date "April 28, 1941" shall be substituted for the dates appearing in the definitions of countries and nationals thereof.

FRANKLIN D. ROOSEVELT.

18. Executive Order 8785—June 14, 1941: Regulating Transactions in Foreign Exchange and Foreign-Owned Property, Providing for the Reporting of all Foreign-Owned Property, and Related Matters

By virtue of and pursuant to the authority vested in me by Section 5 (b) of the Act of October 6, 1917 (40 Stat. 415), as amended, by virtue of all other authority vested in me, and by virtue of the existence of a period of unlimited national emergency, and finding that this order is in the public interest and is necessary in the interest of national defense and security, I, Franklin D. Roosevelt, President of the United States of America, do prescribe the following:

Executive Order No. 8389 of April 10, 1940, as amended, is amended to read as follows:

SECTION 1. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise, if (i) such transactions are by, or on behalf of, or pursuant to the direction of any foreign country designated in this order, or any national thereof, or (ii) such transactions involve property in which any foreign country designated in this order, or any national thereof, has at any time on or since the effective date of this order had any interest of any nature whatsoever, direct or indirect:

A. All transfers of credit between any banking institution within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside the United States, of a banking institution within the United States);

B. All payments by or to any banking institution within the United States;

C. All transactions in foreign exchange by any person within the United States;

D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

SEC. 2. A. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise:

(1) The acquisition, disposition or transfer of, or other dealing in, or with respect to, any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country designated

in this order or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign country, or where the attendant circumstances disclose or indicate that such stamp or seal may, at any time, have been stamped, imprinted, affixed or attached thereto; and

(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States.

B. The Secretary of the Treasury may investigate, regulate, or prohibit under such regulations, rulings, or instructions as he may prescribe, by means of licenses or otherwise, the sending, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States.

SEC. 3. The term "foreign country designated in this order" means a foreign country included in the following schedule, and the term "effective date of this order" means with respect to any such foreign country, or any national thereof, the date specified in the following schedule:

- (a) April 8, 1940—Norway and Denmark;
- (b) May 10, 1940—The Netherlands, Belgium and Luxembourg;
- (c) June 17, 1940—France (including Monaco);
- (d) July 10, 1940—Latvia, Estonia and Lithuania;
- (e) October 9, 1940—Rumania;
- (f) March 4, 1941—Bulgaria;
- (g) March 13, 1941—Hungary;
- (h) March 24, 1941—Yugoslavia;
- (i) April 28, 1941—Greece; and
- (j) June 14, 1941—Albania, Andorra, Austria, Czechoslovakia, Danzig, Finland, Germany, Italy, Liechtenstein, Poland, Portugal, San Marino, Spain, Sweden, Switzerland, and Union of Soviet Socialist Republics.

The "effective date of this order" with respect to any foreign country not designated in this order shall be deemed to be June 14, 1941.

SEC. 4. A. The Secretary of the Treasury and/or the Attorney General may require, by means of regulations, rulings, instructions, or otherwise, any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, from time to time and at any time or times, complete information relative to, any transaction referred to in section 5(b) of the Act of October 6, 1917 (40 Stat. 415), as amended, or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect, including the production of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed; and the Secretary of the Treasury and/or the Attorney General may, through any agency, investigate any such transaction or act, or any violation of the provisions of this order.

B. Every person engaging in any of the transactions referred to in sections 1 and 2 of this order shall keep a full record of each such transaction engaged in by him, regardless of whether such transaction is

effected pursuant to license or otherwise, and such record shall be available for examination for at least one year after the date of such transaction.

SEC. 5. A. As used in the first paragraph of section 1 of this order "transactions [which] involve property in which any foreign country designated in this order, or any national thereof, has . . . any interest of any nature whatsoever, direct or indirect," shall include, but not by way of limitation (i) any payment or transfer to any such foreign country or national thereof, (ii) any export or withdrawal from the United States to such foreign country, and (iii) any transfer of credit, or payment of an obligation, expressed in terms of the currency of such foreign country.

B. The term "United States" means the United States and any place subject to the jurisdiction thereof; the term "continental United States" means the states of the United States, the District of Columbia, and the Territory of Alaska.

C. The term "person" means an individual, partnership, association, corporation, or other organization.

D. The term "foreign country" shall include, but not by way of limitation.

(i) The state and the government thereof on the effective date of this order as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof,

(ii) Any other government (including any political subdivision, agency or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise *de jure* or *de facto* sovereignty over the area which on such effective date constituted such foreign country, and

(iii) Any person to the extent that such person, is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing.

E. The term "national" shall include,

(i) Any person who has been domiciled in, or a subject, citizen or resident of a foreign country at any time on or since the effective date of this order,

(ii) Any partnership, association, corporation or other organization, organized under the laws of, or which on or since the effective date of this order had or has had its principal place of business in such foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, such foreign country and/or one or more nationals thereof as herein defined.

(iii) Any person to the extent that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any national of such foreign country, and

(iv) Any other person who there is reasonable cause to believe is a "national" as herein defined.

In any case in which by virtue of the foregoing definition a person is a national of more than one foreign country, such person shall be deemed to be a national of each such foreign country. In any case in which the combined interests of two or more foreign countries designated in this order and/or nationals thereof are sufficient in the aggregate to constitute, within the meaning of the foregoing, control or 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries. The Secretary of the Treasury shall have full power to determine that any person is or shall be deemed to be a "national" within the meaning of this definition, and the foreign country of which such person is or shall be deemed to be a national. Without limitation of the foregoing, the term "national" shall also include any other person who is determined by the Secretary of the Treasury to be, or to have been, since such effective date, acting or purporting to act directly or indirectly for the benefit or under the direction of a foreign country designated in this order or national thereof, as herein defined.

F. The term "banking institution" as used in this order shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution".

G. The term "this order", as used herein, shall mean Executive Order No. 8389 of April 10, 1940, as amended.

SEC. 6. Executive Order No. 8389 of April 10, 1940, as amended, shall no longer be deemed to be an amendment to or a part of Executive Order No. 6560 of January 15, 1934. Executive Order No. 6560 of January 15, 1934, and the Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of this Order, and except as so modified, continue in full force and effect. Nothing herein shall be deemed to revoke any license, ruling, or instruction now in effect and issued pursuant to Executive Order No. 6560 of January 15, 1934, as amended, or pursuant to this order; provided, however, that all such licenses, rulings, or instructions shall be subject to the provisions hereof. Any amendment, modification or revocation by or pursuant to the provisions of this Order of any orders, regulations, rulings, instructions or licenses shall not affect any act done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification or revocation, and all penalties, forfeitures and liabilities under any such orders, regulations, rulings, instructions or licenses shall continue and may be enforced as if such amendment, modification or revocation had not been made.

SEC. 7. Without limitation as to any other powers or authority of the Secretary of the Treasury or the Attorney General under any other provision of this order, the Secretary of the Treasury is authorized and

empowered to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this order and to provide therein or otherwise the conditions under which licenses may be granted by or through such officers or agencies as the Secretary of the Treasury may designate, and the decision of the Secretary with respect to the granting, denial or other disposition of an application or license shall be final.

SEC. 8. Section 5(b) of the Act of October 6, 1917, as amended, provides in part:

“ . . . Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.”

SEC. 9. This order and any regulations, rulings, licenses or instructions issued hereunder may be amended, modified or revoked at any time.

FRANKLIN D. ROOSEVELT.

19. Executive Order 8832—July 26, 1941: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by section 5(b) of the Act of October 6, 1917 (40 Stat. 415), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, by changing the period at the end of subdivision (j) of Section 3 of such Order to a semi-colon and adding the following new subdivision thereafter:

(k) June 14, 1941—China, and Japan.

FRANKLIN D. ROOSEVELT.

(490)

20. Executive Order 8843—August 9, 1941: Regulation of Consumer Credit

DECLARATION OF NECESSITY AND PURPOSE

WHEREAS a large volume of credit is being devoted to financing and refinancing purchases of consumers' goods and services through extensions of credit that usually are made to individuals and to a large extent are on an instalment payment basis; and

WHEREAS the conditions under which such credit is available have an important influence upon the volume and timing of demand, not only for the particular goods and services purchased on credit but also for goods and services in general; and

WHEREAS liberal terms for such credit tend to stimulate demand for consumers' durable goods, the production of which requires materials, skills, and equipment needed for national defense; and

WHEREAS the extension of such credit in excessive volume tends to generate inflationary developments of increasing consequence as the limits of productive capacity are approached in more and more fields and to hinder the accumulation of savings available for financing the defense program; and

WHEREAS the public interest requires control of the use of instalment credit for financing and refinancing purchases of consumers' durable goods the production of which absorbs resources needed for national defense, in order (a) to facilitate the transfer of productive resources to defense industries, (b) to assist in curbing unwarranted price advances and profiteering which tend to result when the supply of such goods is curtailed without corresponding curtailment of demand, (c) to assist in restraining general inflationary tendencies, to support or supplement taxation imposed to restrain such tendencies, and to promote the accumulation of savings available for financing the defense program, (d) to aid in creating a backlog of demand for consumers' durable goods, and (e) to restrain the development of a consumer debt structure that would repress effective demand for goods and services in the post-defense period; and

WHEREAS in order to prevent evasion or avoidance of this order and such regulations as may be prescribed to effectuate its purposes, means should also be available for regulating the use of other instalment credit and other forms of credit usually extended to consumers or on consumers' durable goods; and

WHEREAS it is appropriate that such credit be controlled and regulated through an existing governmental agency which has primary responsibilities with respect to the determination and administration of national credit policies:

NOW, THEREFORE,

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917, as amended, and by virtue of all other authority vested in me, and in order, in the national emergency declared by me

on May 27, 1941,¹ to promote the national defense and protect the national economy, it is hereby ordered as follows:

ADMINISTRATION

SECTION 1. (a) The Board of Governors of the Federal Reserve System (hereinafter called the Board) is hereby designated as the agency through which transfers of credit between and payments by or to banking institutions (as defined herein pursuant to section 5 (b) of the aforesaid Act) which constitute, or arise directly or indirectly out of, any extension of credit of a type set out in section 2 (a) of this order shall be investigated, regulated and prohibited.

(b) The Board shall, whenever it deems such action to be necessary or appropriate, take any lawful steps herein authorized and such other lawful steps as are within its power to carry out the purposes of this order, and may, in administering this order, utilize the services of the Federal Reserve Banks and any other agencies, Federal or State, which are available and appropriate.

(c) In order to facilitate the coordination of the Board's functions under this order with other phases of the program for national defense and for protecting the national economy, there shall be a committee consisting of the Secretary of the Treasury, the Federal Loan Administrator, and the Administrator of the Office of Price Administration and Civilian Supply, or such alternate as each shall designate, and such other members as the President shall subsequently appoint. The Board shall maintain liaison with the committee, and in formulating policies with respect to down-payments, maturities, terms of repayment, and other such questions of general policy shall consult with the committee and take into consideration any suggestions or recommendations it may make.

REGULATIONS

SEC. 2. (a) Whenever the Board shall determine that such action is necessary or appropriate for carrying out the purposes of this order, the Board shall prescribe regulations with respect to transfers and payments which constitute, or arise directly or indirectly out of, any extension of instalment credit for the purpose of purchasing or carrying any consumers' durable good except a residential building in its entirety; and the Board may in addition, to the extent deemed by it to be desirable and feasible in order to prevent evasion of such regulations as may be so prescribed or in order to control forms of credit the use of which might defeat the purposes of this order and such regulations, prescribe regulations with respect to transfers and payments which constitute, or arise directly or indirectly out of, (1) any other extension of instalment credit, or (2) any other extension of credit for the purpose of purchasing or carrying any consumers' durable good, or (3) any other extension of credit in the form of a loan other than a loan made for business purposes to a business enterprise or for agricultural purposes to a person engaged in agriculture. Such regulations may be prescribed by the Board at such times and with such effective

¹ 6 F.R. 2617.

dates as the Board shall deem to be in accordance with the purpose of this order.

(b) Such regulations may from time to time, originally or by amendment, regulate or prohibit such transfers and payments or exempt them from regulation or prohibition and may classify them according to the nature of the transactions or goods or persons involved or upon such other basis as may reasonably differentiate such transfers and payments for the purposes of regulations under this order, and may be made applicable to one or more of the classes so established; and, without limiting the generality of the foregoing, such regulations may require transactions or persons or classes thereof to be registered or licensed; may prescribe appropriate limitations, terms, and conditions for such registrations or licenses; may provide for suspension of any such registration or license for violation of any provision thereof or of any regulation, rule, or order prescribed hereunder, may prescribe appropriate requirements as to the keeping of records and as to the form, contents, or substantive provisions of contracts, liens, or any relevant documents; may prohibit solicitations by banking institutions which would encourage evasion or avoidance of the requirements of any regulation, license, or registration under this order; and may from time to time make appropriate provisions with respect to—

(1) The maximum amount of credit which may be extended on, or in connection with any purchase of, any consumers' durable good;

(2) The maximum maturity, minimum periodic payments, and maximum periods between payments, which may be stipulated in connection with extensions of credit;

(3) The methods of determining purchase prices or market values or other bases for computing permissible extensions of credit or required down-payments; and

(4) Special or different terms, conditions, or exemptions with respect to new or used goods, minimum original cash payments, temporary credits which are merely incidental to cash purchases, payment or deposits usable to liquidate credits, and other adjustments or special situations.

(c) On and after the effective date of any regulation prescribed by the Board with respect to any extension of credit of a type set out in section 2(a), and notwithstanding the provisions of any other proclamation, order, regulation, or license under the aforesaid Act, all transfers and payments which are in violation of such regulation shall be and hereby are prohibited to the extent specified in such regulation.

(d) Neither this order nor any regulation issued thereunder shall affect the right of any person to enforce any contract, except that after the effective date of any such regulation every contract which is made in connection with any extension of credit and which violates, or the performance of which would violate, any provision of such regulation (other than a provision designated therein as being for administrative purposes), and every lien, pledge, seller's interest in a conditional sale, or other property interest, subject to the provisions of such contract or created in connection therewith, shall be unenforceable by the person who extends such credit or by any person who acquires any right of such person in such contract; provided that such disability shall not

apply to any person who extends such credit, or acquires such right for value, in good faith and without knowing or having reason to know the facts by reason of which the making or performance of such contract was or would be such a violation.

REPORTS

SEC. 3. Reports concerning the kinds, amounts, and characteristics of any extensions of credit subject to this order, concerning transfers and payments which arise out of any such extensions of credit, or concerning circumstances related to such extensions of credit or such transfers or payments or to the regulation thereof, shall be filed on such forms, under oath or otherwise, at such times and from time to time, and by such persons, as the Board may prescribe by rule, regulation, or order as necessary or appropriate for enabling the Board to perform its functions under this order. The Board may require any person to furnish, under oath or otherwise, complete information relative to any transaction within the scope of this order, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person.

DEFINITIONS

SEC. 4. For the purposes of this order, unless the context otherwise requires, the following terms shall have the following meanings, provided that the Board may in its regulations give such terms more restricted meanings:

(a) "Person" has the meaning set forth in section 5(b) of the act of October 6, 1917, as amended.

(b) "Transfers and payments" means "transfers of credit between and payments by or to banking institutions".

(c) "Banking institution" means any person engaged as principal, agent, broker, or otherwise, in the business of making or holding extensions of credit and includes, without limitation, any bank, any loan company, and finance company, or any other person engaged in the business of making or holding extensions of credit whether as a vendor of consumers' durable goods or otherwise.

(d) "Consumers' durable good" includes any good, whether new or used, which is durable or semi-durable and is used or usable for personal, family or household purposes, and any service connected with the acquisition of any such good or of any interest therein.

(e) "Extension of credit" means any loan or mortgage; any installment purchase contract, any conditional sales contract, or any sale or contract of sale under which part or all of the price is payable subsequent to the making of such sale or contract; any rental-purchase contract, or any contract for the bailment or leasing of property under which the bailee or lessee either has the option of becoming the owner thereof or obligates himself to pay as compensation a sum substantially equivalent to or in excess of the value thereof; any contract creating any lien or similar claim or property to be discharged by the payment of money; any purchase, discount, or other acquisition of, or any extension of credit upon the security of, any obligation or claim arising out of any of the foregoing; and any transaction or series of transactions having a similar purpose or effect.

(f) An extension of credit is an extension of "instalment credit" if the obligor undertakes to repay the credit in two or more scheduled payments or undertakes to make two or more scheduled payments or deposits usable to liquidate the credit, or if the extension of credit has a similar purpose or effect, or if it is for the the purpose of financing a business enterprise which makes such extensions of credit.

(g) An extension of credit is "for the purpose of purchasing or carrying any consumers' durable good" if it is directly or indirectly for the purpose of financing or refinancing the purchase of any consumers' durable good or is directly or indirectly secured by any consumers' durable good, or if the extension of credit has a similar purpose or effect, or if it is for the purpose of financing a business enterprise which makes such extensions of credit.

PENALTIES

SECTION 5. Whoever willfully violates or knowingly participates in the violation of this order or of any regulation prescribed hereunder, shall be subject to the penalties applicable with respect to violations of section 5 (b) of the said act of October 6, 1917, as amended.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE.
August 9, 1941.

21. Executive Order 8963—December 9, 1941: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917 (40 Stat. 415), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, by changing the period at the end of subdivision (k) of Section 3 of such Order to a semi-colon and adding the following new subdivision thereafter:

(1) June 14, 1941—Thailand.

FRANKLIN D. ROOSEVELT.

22. Executive Order 8998—December 26, 1941: Amendment of Executive Order No. 8389 of April 10, 1940, as Amended

By virtue of the authority vested in me by Sections 3(a) and 5(b) of the Trading with the Enemy Act of October 6, 1917 (40 Stat. 415), as amended by Title III of the First War Powers Act, 1941 (Public Law No. 354, 77th Congress), and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the United States of America, do hereby amend Executive Order No. 8389 of April 10, 1940, as amended, in the following respects:

(1) By changing the period at the end of subdivision (1) of section 3 of such Order to a semi-colon and adding the following new subdivision thereafter:

(m) June 14, 1941—Hong Kong.

(2) By amending paragraph B of section 5 of such Order to read as follows:

B. The term "United States" means the United States and any place subject to the jurisdiction thereof, and the term "continental United States" means the states of the United States, the District of Columbia, and the Territory of Alaska; *provided, however*, that for the purposes of this Order the term "United States" shall not be deemed to include any territory included within the term "foreign country" as defined in paragraph D of this section 5:

(3) By substituting the following in lieu of subdivision (iii) of paragraph D of section 5:

(iii) Any territory which on or since the effective date of this Order is controlled or occupied by the military, naval or police forces or other authority of such foreign country;

(iv) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing. Hong Kong shall be deemed to be a foreign country within the meaning of this subdivision.

FRANKLIN D. ROOSEVELT.

23. Executive Order 9095—March 11, 1942: Establishing the Office of Alien Property Custodian and Defining Its Functions and Duties

By virtue of the authority vested in me by the Constitution, by the Trading with the Enemy Act of October 6, 1917, as amended, by the First War Powers Act, 1941, and as President of the United States, it is hereby ordered as follows:

1. There is hereby established in the Office for Emergency Management of the Executive Office of the President the Office of Alien Property Custodian, at the head of which shall be an Alien Property Custodian appointed by the President. The Alien Property Custodian shall receive compensation at such rate as the President shall approve and in addition shall be entitled to actual and necessary transportation, subsistence, and other expenses incidental to the performance of his duties. Within the limitation of such funds as may be made available for that purpose, the Alien Property Custodian may appoint assistants and other personnel and delegate to them such functions as he may deem necessary to carry out the provisions of this Order.

2. All power and authority conferred on the President by Sections 3 (a) and 5 (b) of the Trading with the Enemy Act of October 6, 1917, as amended, and by Sections 301 and 302 of Title III of the First War Powers Act, 1941, approved December 18, 1941, except such powers and authority as were delegated to the Secretary of the Treasury by Executive Orders issued prior to February 12, 1942, and to the Board of Governors of the Federal Reserve System by Executive Order No. 8843¹ of August 9, 1941 (which powers and authority shall continue to be vested in and exercised by the Secretary of the Treasury and the Board of Governors respectively), are hereby delegated to and vested in the Alien Property Custodian. The memorandum of February 12, 1942,² delegating to the Secretary of the Treasury certain powers and authority under said sections, is hereby revoked and canceled. Any and all action heretofore taken by the Board of Governors of the Federal Reserve System after February 11, 1942, in pursuance of Executive Order No. 8843 of August 9, 1941, is hereby confirmed and ratified. In the exercise of the authority herein delegated, the Alien Property Custodian shall be subject to the provisions of Executive Order No. 8839 of July 30, 1941, and shall designate a representative to the Board of Economic Warfare in accordance with section 6 thereof.

3. Any property, or interest therein, of any foreign country or a national thereof shall vest in the Alien Property Custodian whenever the Alien Property Custodian shall so direct; and, in the case of any

¹ 6 F.R. 4035.

² 7 F.R. 1409.

property, or interest therein, subject to the control of the Secretary of the Treasury, when the Alien Property Custodian shall notify the Secretary of the Treasury in writing that he has so directed, the Secretary of the Treasury shall release all control of any such property, or interest therein, to the Alien Property Custodian.

4. Any outstanding order, proclamation, regulation, ruling, license, or instruction issued pursuant to, or relating to the administration of, any power or authority vested in the Alien Property Custodian by this Order shall remain in effect unless and until amended or revoked by the Alien Property Custodian.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
March 11, 1942.

24. Executive Order 9142—April 21, 1942: Transferring Certain Functions, Property, and Personnel From the Department of Justice to the Alien Property Custodian

By virtue of the authority vested in me as President of the United States, under the Constitution and laws of the United States, and in particular by Title I of the First War Powers Act, 1941, approved December 18, 1941 (Public Law No. 354, 77th Congress), it is hereby ordered as follows:

1. All authority, rights, privileges, powers, duties, and functions transferred or delegated to the Department of Justice, to be administered under the supervision of the Attorney General, by Executive Order No. 6694 of May 1, 1934, or vested in, transferred or delegated to, the Attorney General or the Assistant Attorney General in charge of the Claims Division of the Department of Justice, by Executive Order No. 8136 of May 15, 1939¹ are hereby transferred to the Alien Property Custodian provided for by Executive Order No. 9095, dated March 11, 1942.²

2. Subject to the provisions of paragraph 5 hereof, all property of the Alien Property Division of the Department of Justice, including records, files, supplies, furniture, and equipment, and all funds, securities, choses in action, real estate, patents, trade marks, copyrights, and all other property of whatsoever kind, held or administered by the Attorney General under and pursuant to the Trading With the Enemy Act, as amended, are hereby transferred to the Alien Property Custodian, to be administered and disposed of under his supervision and direction.

3. All administrative or general or other expenses of the Office of the Alien Property Custodian in the administration of the Trading With the Enemy Act, as amended, including the administration of Executive Order No. 9095, may be paid out of any funds or other property transferred to the Alien Property Custodian hereunder, whether or not such expenses relate to the property transferred hereunder, or were incurred before or after March 11, 1942.

4. The personnel of the Alien Property Division of the Department of Justice is hereby transferred to the Office of the Alien Property Custodian without loss of such civil service status or eligibility therefor as they may have.

5. All litigation in which the Alien Property Custodian or the Office of the Alien Property Custodian is interested shall be conducted under the supervision of the Attorney General. The Department of Justice and the Attorney General shall from time to time render such advice on legal matters to the Alien Property Custodian and

¹ 4 F.R. 2044.

² 7 F.R. 1971.

the Office of the Alien Property Custodian as the Attorney General and the Alien Property Custodian may from time to time agree upon. For the purpose of defraying such expenses as may be incurred by the Department of Justice or the Attorney General in the rendering of advice as aforesaid or in the conduct of litigation in which the Alien Property Custodian or the Office of Alien Property Custodian is interested, including expenses for salaries of personnel and all other charges, the Alien Property Custodian may from time to time make available out of the funds or other property in his possession or control such funds as the Attorney General and the Alien Property Custodian may from time to time agree to be necessary therefor. Nothing in this order shall be construed to require the Department of Justice to surrender possession of any files and records relating to any litigation heretofore or hereafter conducted by it.

6. This order shall not be construed as modifying or limiting in any way the authority heretofore granted to the Federal Bureau of Investigation.

7. This order shall remain in force during the continuance of the present war and for six months after the termination thereof.

8. All prior Executive orders insofar as they are in conflict herewith are hereby superseded.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
April 21, 1942.

25. Executive Order 9193—July 6, 1942: Amending Executive Order No. 9095 Establishing the Office of Alien Property Custodian and Defining Its Functions and Duties and Related Matters

By virtue of the authority vested in me by the Constitution, by the First War Powers Act, 1941, by the Trading with the Enemy Act of October 6, 1917, as amended, and as President of the United States, it is hereby ordered as follows:

Executive Order No. 9095 of March 11, 1942,¹ is amended to read as follows:

1. There is hereby established in the Office for Emergency Management of the Executive Office of the President the Office of Alien Property Custodian, at the head of which shall be an Alien Property Custodian appointed by the President. The Alien Property Custodian shall receive compensation at such rate as the President shall approve and in addition shall be entitled to actual and necessary transportation, subsistence, and other expenses incidental to the performance of his duties. Within the limitation of such funds as may be made available for that purpose, the Alien Property Custodian may appoint assistants and other personnel and delegate to them such functions as he may deem necessary to carry out the provisions of this Executive Order.

2. The Alien Property Custodian is authorized and empowered to take such action and he deems necessary in the national interest, including, but not limited to, the power to direct, manage, supervise, control or vest, with respect to:

(a) any business enterprise within the United States which is a national of a designated enemy country and any property of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to or which is evidence of ownership or control of any such business enterprise, and any interest of any nature whatsoever in such business enterprise held by an enemy country or national thereof;

(b) any other business enterprise within the United States which is a national of a foreign country and any property of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to or which is evidence of ownership or control of any such business enterprise, and any interest of any nature whatsoever in such business enterprise held by a foreign country or national thereof, when it is determined by the Custodian and he has certified to the Secretary of the Treasury that it is necessary in the national interest, with respect to such business enterprise, either (i) to provide for the protection of the property, (ii) to change personnel or supervise the employment policies, (iii) to liquidate, reorga-

¹ 7 F.R. 1971.

nize, or sell, (iv) to direct the management in respect to operations, or (v) to vest;

(c) any other property within the United States owned or controlled by a designated enemy country or national thereof, not including in such other property, however, cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange and securities except to the extent that the Alien Property Custodian determines that such cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange and securities are necessary for the maintenance or safeguarding of other property belonging to the same designated enemy country or the same national thereof and subject to vesting pursuant to section 2 hereof;

(d) any patent, patent application, design patent, design patent application, copyright, copyright application, trademark or trademark application or right related thereto in which any foreign country or national thereof has any interest and any property of any nature whatsoever (including, without limitation, royalties and license fees) payable or held with respect thereto, and any interest of any nature whatsoever held therein by any foreign country or national thereof;

(e) any ship or vessel or interest therein, in which any foreign country or national thereof has an interest; and

(f) any property of any nature whatsoever which is in the process of administration by any person acting under judicial supervision or which is in partition, libel, condemnation or other similar proceedings and which is payable or deliverable to, or claimed by, a designated enemy country or national thereof. When the Alien Property Custodian determines to exercise any power and authority conferred upon him by this section with respect to any of the foregoing property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of such property, except as authorized or directed by the Alien Property Custodian.

3. Subject to the provisions of this Executive Order, all powers and authority conferred upon me by sections 3(a) and 5(b) of the Trading With the Enemy Act, as amended, are hereby delegated to the Secretary of the Treasury or any person, agency, or instrumentality designated by him; *provided, however*, that when any property or interest, not belonging to a foreign government or central bank, shall be vested by the Secretary of the Treasury, such property or interest shall be vested in, and dealt with by, the Alien Property Custodian upon the terms directed by the Secretary of the Treasury. Except as otherwise provided herein, this Executive Order shall not be deemed to modify or amend Executive Order No. 8389, as amended,² or the President's Proclamation of July 17, 1941,³ or Executive Order No. 8839 as amended,⁴ or the regulations, rulings, licenses and other action taken hereunder, or in connection therewith.

4. Without limitation as to any other powers or authority of the Secretary of the Treasury or the Alien Property Custodian under any other provision of this Executive Order, the Secretary of the Treasury and the Alien Property Custodian are authorized and empowered,

² 6 F.R. 2897, 3715, 6348, 6785.

³ 6 F.R. 3555.

⁴ 6 F.R. 3823, 4795.

either jointly or severally, to prescribe from time to time, regulations, rulings, and instructions to carry out the purposes of this Executive order. The Secretary of the Treasury and the Alien Property Custodian each shall make available to the other all information in his files to enable the other to discharge his functions, and shall keep each other currently informed as to investigations being conducted with respect to enemy ownership or control of business enterprises within the United States.

5. The Alien Property Custodian is authorized to issue appropriate regulations governing the service of process or notice upon any person within any designated enemy country or any enemy-occupied territory in connection with any court or administrative action or proceeding within the United States. The Alien Property Custodian also is authorized to take such other and further measures in connection with representing any such person in any such action or proceeding as in his judgment and discretion is or may be in the interest of the United States. If, as a result of any such action or proceeding, any such person obtains, or is determined to have, an interest in any property (including money judgments), such property, less an amount equal to the costs and expenses incurred by the Alien Property Custodian in such action or proceeding, shall be subject to the provisions of Executive Order No. 8389, as amended, *provided, however*, that this shall not be deemed to limit the powers of the Alien Property Custodian under section 2 of this order; and *provided further*, that the Alien Property Custodian may vest an amount of such property equal to the costs and expenses incurred by the Alien Property Custodian in such action or proceeding.

6. To enable the Alien Property Custodian to carry out his functions under this Executive order, there are hereby delegated to the Alien Property Custodian or any person, agency, or instrumentality designated by him all powers and authority conferred upon me by section 5(b) of the Trading With the Enemy Act, as amended, including, but not limited to, the power to make such investigations and require such reports as he deems necessary or appropriate to determine whether any enterprise or property should be subject to his jurisdiction and control under this Executive order. The powers and authority conferred upon the Alien Property Custodian by Executive Order No. 9142⁵ shall be administered by him in conformity with the provisions of this Executive order.

7. In the exercise of the authority herein delegated, the Alien Property Custodian shall be subject to the provisions of Executive Order No. 8839 of July 30, 1941, and shall designate a representative to the Board of Economic Warfare in accordance with section 6 thereof.

8. All records and other property (including office equipment) of the Treasury Department which are used primarily in the administration of powers and duties to be exercised by the Alien Property Custodian, and such personnel as is used primarily in the administration of such powers and duties and which was hired by the Treasury Department after September 1, 1941 (including officers whose chief duties

⁵ F.R. 2985.

relate to the administration of such powers and duties), as the Secretary of the Treasury and the Alien Property Custodian shall jointly certify for transfer, shall be transferred to the Office of the Alien Property Custodian. In the event of disagreement concerning the transfer of any personnel, records, or property, the determination shall be made by the Director of the Bureau of the Budget, pursuant to the formula here prescribed. Any personnel transferred pursuant to this Executive order shall be transferred without loss of such Civil Service status or eligibility therefor as they may have.

9. This Executive Order shall not be deemed to modify or amend Executive Order No. 8843 of August 9, 1941,⁶ and the regulations, rulings, licenses and other action taken thereunder. Any and all action heretofore taken by the Secretary of the Treasury or the Alien Property Custodian, or by any person, agency, or instrumentality designated by either of them, pursuant to sections 3 (a) and 5 (b) of the Trading With the Enemy Act, as amended, or pursuant to prior Executive orders, and any and all action heretofore taken by the Board of Governors of the Federal Reserve System pursuant to Executive Order No. 8843 of August 9, 1941, are hereby confirmed and ratified.

10. For the purpose of this Executive Order:

(a) The term "designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country with which the United States is at war in the future. The term "national" shall have the meaning prescribed in section 5 of Executive Order No. 8389, as amended, *provided, however*, that persons not within designated enemy countries (even though they may be within enemy-occupied countries or areas) shall not be deemed to be nationals of a designated enemy country unless the Alien Property Custodian determines: (i) That such person is controlled by or acting for or on behalf of (including cloaks for) a designated enemy country or a person within such country; or (ii) that such person is a citizen or subject of a designated enemy country and within an enemy-occupied country or area; or (iii) that the national interest of the United States requires that such person be treated as a national of a designated enemy country. For the purpose of this Executive Order any determination by the Alien Property Custodian that any property or interest of any foreign country or national thereof is the property or interest of a designated enemy country or national thereof shall be final and conclusive as to the power of the Alien Property Custodian to exercise any of the power or authority conferred upon me by section 5 (b) of the Trading With the Enemy Act, as amended.

(b) The term "business enterprise within the United States" shall mean any individual proprietorship, partnership, corporation or other organization primarily engaged in the conduct of a business within the United States, and any other individual proprietorship, partnership, corporation or other organization to the extent that it has an established office within the United States engaged in the conduct of business within the United States.

⁶ 6 F.R. 4035.

11. The Secretary of the Treasury or the Alien Property Custodian, as the case may be, shall, except as otherwise agreed to by the Secretary of State, consult with the Secretary of State before vesting any property or interest pursuant to this Executive Order, and the Secretary of the Treasury shall consult with the Secretary of State before issuing any Order adding any additional foreign countries to section 3 of Executive Order No. 8389, as amended.

12. Any orders, regulations, rulings, instructions, licenses or other actions issued or taken by any person, agency or instrumentality referred to in this Executive Order, shall be final and conclusive as to the power of such person, agency or instrumentality to exercise any of the power or authority conferred upon me by sections 3 (a) and 5 (b) of the Trading With the Enemy Act, as amended; and to the extent necessary and appropriate to enable them to perform their duties and functions hereunder, the Secretary of the Treasury and the Alien Property Custodian shall be deemed to be authorized to exercise severally any and all authority, rights, privileges and powers conferred on the President by sections 3 (a) and 5 (b) of the Trading With the Enemy Act of October 6, 1917, as amended, and by sections 301 and 302 of Title III of the First War Powers Act, 1941, approved December 18, 1941. No person affected by any order, regulation, ruling, instruction, license or other action issued or taken by either the Secretary of the Treasury or the Alien Property Custodian shall be entitled to challenge the validity thereof or otherwise excuse his actions, or failure to act, on the ground that pursuant to the provisions of this Executive Order, such order, regulation, ruling, instruction, license or other action was within the jurisdiction of the Alien Property Custodian rather than the Secretary of the Treasury or vice versa.

13. Any regulations, rulings, instructions, licenses, determinations or other actions issued, made or taken by any agency or person referred to in this Executive Order, purporting to be under the provisions of this Executive Order or any other proclamation, order or regulation, issued under sections 3 (a) or 5 (b) of the Trading With the Enemy Act, as amended, shall be conclusively presumed to have been issued, made or taken after appropriate consultation as herein required and after appropriate certification in any case in which a certification is required pursuant to the provisions of this Executive Order.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
July 6, 1942.

26. Executive Order 9567—June 8, 1945: Amending Executive Order No. 9095, as Amended by Executive Order No. 9193, To Define Further the Functions and Duties of the Alien Property Custodian With Respect to Property of Germany and Japan and Nationals Thereof

By virtue of the authority vested in me by the Constitution, by the First War Powers Act, 1941 (50 U.S.C. App. Sup., 601 et seq.), by the Trading With the Enemy Act of October 6, 1917, as amended (50 U.S.C. App., Sup., 1 et seq.), and as President of the United States, it is hereby ordered as follows:

Section 2 (c) of Executive Order No. 9095 of March 11, 1942, as amended by Executive Order No. 9193 of July 6, 1942 (3 CFR Cum. Supp.), is amended to read as follows:

"(c) any other property or interest within the United States of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, a designated enemy country or national thereof: *Provided, however,* That with respect to any such country or national other than Germany or Japan or any national thereof, such property or interest shall not include cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange, and securities except to the extent that the Alien Property Custodian determines that such cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange, and securities are necessary for the maintenance or safeguarding of other property belonging to the same designated enemy country or the same national thereof and subject to vesting pursuant to section 2 hereof;"

HARRY S TRUMAN.

THE WHITE HOUSE,
June 8, 1946.

27. Executive Order 9747—July 3, 1946: Continuing the Functions of the Alien Property Custodian and the Department of the Treasury in the Philippines

By virtue of the authority vested in me by the Constitution and statutes, including Title III of the First War Powers Act, 1941 (50 U.S.C. App., Sup., 616 et seq.), as amended, the Trading With the Enemy Act of October 6, 1917 (50 U.S.C. App., 1 et seq.), as amended, and Public Law No. 485, 79th Congress, approved July 3, 1946, and as President of the United States, it is hereby ordered as follows:

The terms and provisions of Executive Order 9095 of March 11, 1942,¹ as amended, and Executive Order No. 8389 of April 10, 1940,¹ as amended, shall continue in force in the Philippines after July 4, 1946, and all powers and authority delegated by the said Executive Orders to the Alien Property Custodian and to the Secretary of the Treasury, respectively, shall after July 4, 1946, continue to be exercised in the Philippines by the said officers, respectively, as therein provided.

HARRY S. TRUMAN.

¹ 3 CFR Cum. Supp.

28. Executive Order 9760—July 23, 1946: Conferring Certain Authority Upon the Secretary of State With Regard to Diplomatic and Consular Property of Germany and Japan Within the United States

By virtue of the authority vested in me by the Constitution and statutes, including the Trading With the Enemy Act of October 6, 1917, as amended, and the First War Powers Act, 1941, and as President of the United States, it is hereby ordered as follows:

1. The Secretary of State is authorized and empowered as he deems necessary in the national interest to direct, manage, supervise, or control diplomatic and consular property within the United States owned or controlled by Germany or Japan, including all assets on the premises of such property.

2. The Alien Property Custodian shall not exercise any power and authority conferred upon him by any other Executive order with respect to diplomatic and consular property within the United States owned or controlled by Germany or Japan except so far as the Secretary of State releases his authority over such diplomatic and consular property under this order and so notifies the Alien Property Custodian in writing.

3. When the Secretary of State determines to exercise any power and authority conferred upon him by this order with respect to any property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of such property, except as authorized or directed by the Secretary of State.

4. This order supersedes all conflicting provisions of prior Executive orders, including Executive Orders Nos. 8389, as amended, and 9095, as amended.

5. The Secretary of State is authorized to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this order.

HARRY S. TRUMAN.

THE WHITE HOUSE,
July 23, 1946.

29. Executive Order 9989—August 20, 1948: Transferring Jurisdiction Over Blocked Assets to the Attorney General

Whereas with the successful termination of hostilities, there has been a gradual release from control by the Treasury Department over foreign property and interests which had been blocked to prevent their looting by the Axis and their use in ways harmful to the war effort of the United States; and

Whereas certain of such foreign property and interests have not yet been unblocked; and

Whereas it is now necessary and desirable to place the jurisdiction over the assets remaining blocked on September 30, 1948, in the same agency which is administering the program of alien property control initiated under Executive Order No. 9095 of March 11, 1942,¹ as amended, which program is presently being administered by the Attorney General: Now, therefore,

By virtue of the authority vested in me by the Constitution and the laws of the United States, including the Trading With the Enemy Act of October 6, 1917, as amended, and as President of the United States, it is hereby ordered as follows:

1. The Attorney General is hereby authorized and directed to take such action as he may deem necessary with respect to any property or interest of any nature whatsoever in which any foreign country designated in Executive Order No. 8389 of April 10, 1940,¹ as amended, or any national thereof has any interest (including property subject to the proviso of paragraph (a) of General License No. 94, as amended (31 CFR, 1947 Supp., 131.94), and including any Scheduled Securities within the meaning of General Ruling No. 5, as amended (31 CFR, 1947 Supp., 131, App. A), both issued by the Secretary of the Treasury) which on September 30, 1948, is not unblocked or otherwise removed from the restrictions of the said Executive Order No. 8389, as amended, by any order, regulation, ruling, instruction, license, or other action issued or taken by the Secretary of the Treasury. In the performance of his duties under this order, the Attorney General or any officer, person, agency, or instrumentality designated by him, may exercise all powers and authority vested in the President by sections 3(a) and 5(b) of the Trading With the Enemy Act, as amended. As used herein, the terms "national" and "foreign country" shall have the meanings prescribed in Executive Order No. 8389, as amended.

2. With respect to the property and interests referred to in section 1 hereof, all orders, regulations, rulings, instructions, or licenses issued by the Secretary of the Treasury under the authority of Executive Order No. 8389, as amended, and Executive Order No. 9095, as amended, and in force on September 30, 1948, shall continue in full

¹ 3 CFR, 1943 Cum. Supp.

force and effect except as amended, modified, or revoked by the Attorney General.

3. It is the policy of this order that administrative action under paragraph 1 hereof shall be taken by the Attorney General or any officer, person, agency, or instrumentality designated by him. However, nothing in this order shall be deemed to limit or remove any powers heretofore conferred upon the Secretary of the Treasury or the Attorney General by statute or by Executive order. No person affected by any order, regulation, ruling, instruction, license, or other action issued or taken by either the Secretary of the Treasury or the Attorney General may challenge the validity thereof or otherwise excuse his actions, or failure to act, on the ground that pursuant to the provisions of this Executive order, such order, regulation, ruling, instruction, license, or other action was within the jurisdiction of the Attorney General rather than the Secretary of the Treasury or *vice versa*.

4. This order shall become effective as of midnight, September 30, 1948.

HARRY S. TRUMAN.

THE WHITE HOUSE,
August 20, 1948.

30. **Executive Order 9788—October 14, 1946: Terminating the Office of Alien Property Custodian and Transferring its Functions to the Attorney General**

By virtue of the authority vested in me by the Constitution and statutes, including the Trading with the Enemy Act of October 6, 1917, 40 Stat. 411, as amended, and the First War Powers Act, 1941, 55 Stat. 838, as amended, and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Office of Alien Property Custodian in the Office for Emergency Management of the Executive Office of the President, established by Executive Order No. 9095 of March 11, 1942, is hereby terminated; and all authority, rights, privileges, powers, duties, and functions vested in such Office or in the Alien Property Custodian or transferred or delegated thereto are hereby vested in or transferred or delegated to the Attorney General, as the case may be, and shall be administered by him or under his direction and control by such officers and agencies of the Department of Justice as he may designate.

2. All property or interests vested in or transferred to the Alien Property Custodian or seized by him, and all proceeds thereof, which are held or administered by him on the effective date of this order are hereby transferred to the Attorney General.

3. All personnel, property, records, and funds of the Office of Alien Property Custodian are hereby transferred to the Department of Justice.

4. This order supersedes all prior Executive orders to the extent that they are in conflict with this order.

5. This order shall become effective on October 15, 1946.

HARRY S. TRUMAN.

31. Executive Order 10348—April 26, 1952: Continuing in Force Orders and Regulations Relating to Blocked Property

By virtue of the authority vested in me by the Constitution and laws of the United States, including the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, and as President of the United States, it is hereby ordered as follows:

Executive Order No. 8389 of April 10, 1940, as amended, and Executive Order No. 9989 of August 20, 1948, and all delegations, designations, regulations, rulings, instructions, and licenses issued under such orders are hereby continued in force according to their terms for the duration of the period of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950.

HARRY S. TRUMAN.

THE WHITE HOUSE,
April 26, 1952.

32. Executive Order 10896—November 29, 1960: Amendment of Executive Order No. 6260 of August 28, 1933

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended, 12 U.S.C. 95a, and in view of the continued existence of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, I, Dwight D. Eisenhower, President of the United States of America, do hereby confirm Executive Order No. 6260 of August 28, 1933, as amended, and do hereby further amend Executive Order No. 6260 as follows:

1. Section 3 is revoked.

2. The first paragraph of section 5 is amended by deleting the proviso at the end thereof, and by inserting a period in place of the colon after the phrase "this Executive Order" where it appears in such paragraph.

3. Section 7 is revoked.

This amendment of Executive Order No. 6260, as amended, shall not affect any act done, or any right accruing or accrued or any suit or proceeding had or commenced in any civil or criminal cause prior to the effective date of this amendment, and all penalties, forfeitures, and liabilities under Executive Order No. 6260, as heretofore amended, shall continue and may be enforced as if this amendment had not been made. All licenses, orders, rules, or regulations heretofore issued under Executive Order No. 6260, as amended, and now in effect, including the Gold Regulations constituting Part 54 of Title 31 of the Code of Federal Regulations, are hereby approved, ratified, and confirmed and shall continue in full force and effect until amended, modified, or revoked by the Secretary of the Treasury.

This amendment shall become effective upon filing for publication with the Office of the Federal Register.

DWIGHT D. EISENHOWER.

33. Executive Order 10905—January 14, 1961: Amendment of Executive Order No. 6260 of August 28, 1933, as Amended

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, as amended, 12 U.S.C. § 95a, and in view of the continued existence of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, I, Dwight D. Eisenhower, President of the United States of America, do hereby further amend Executive Order No. 6260, as amended, as follows:

1. By amending section 2 to read as follows:

"2. As used in this order, the term 'person' means an individual, partnership, association or corporation; the term 'United States' means the United States and any place subject to the jurisdiction thereof; and the term 'person subject to the jurisdiction of the United States' means: (a) any individual who is a citizen of the United States; (b) any individual, wherever located, who is a resident of, or domiciled in, the United States; (c) any partnership, association, corporation or other organization which is organized or doing business under the laws of the United States or of any state or territory thereof or the district of Columbia and; (d) any partnership, association, corporation or other organization wherever organized or doing business which is owned or controlled by persons specified in (a), (b), or (c)."

2. By adding at the end thereof a new section 12 reading as follows:

"12. Except under license issued therefor pursuant to the provisions of this order, no person subject to the jurisdiction of the United States shall, after the effective date of this section, acquire, hold in his possession, earmark, or retain any interest, legal or equitable, in any gold coin (other than gold coin having a recognized special value to collectors of rare and unusual coin), gold certificates, or gold bullion situated outside of the United States, or any securities issued by any person holding, as a substantial part of his assets, gold as a store of value or as, or in lieu of, money and not for a specific and customary industrial, professional or artistic use. The Secretary of the Treasury, subject to such other regulations as he may prescribe, is authorized to issue licenses permitting, until June 1, 1961, the holding and disposition of any such securities or gold coin, certificates or bullion acquired by persons subject to the jurisdiction of the United States prior to the effective date of this section and owned by such persons on such date. The Secretary is further authorized to issue licenses permitting the acquisition and holding by persons subject to the jurisdiction of the United States of gold bullion situated outside of the United States which the Secretary or such agency as he may designate is satisfied is required for legitimate and customary use in the industry, profession or art in which such person is regularly engaged."

This amendment shall become effective upon filing for publication with the Office of the Federal Register.

DWIGHT D. EISENHOWER.

34. Executive Order 11037—July 20, 1962: Amendment of Section 12 of Executive Order No. 6260 of August 28, 1933, as Amended

By virtue of the authority vested in me by Section 5(b) of the Act of October 6, 1917, as amended, 12 U.S.C. 95a, and in view of the continued existence of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, I, John F. Kennedy, President of the United States of America, do hereby further amend Executive Order No. 6260, as amended, as follows:

1. Section 12 is amended to read as follows:

"12. Except under license issued therefor pursuant to the provisions of this order, no person subject to the jurisdiction of the United States shall, after the effective date of this section, acquire, hold in his possession, earmark, or retain any interest, legal or equitable, in any gold coin, gold certificates, or gold bullion, situated outside of the United States or any securities issued by any person holding, as a substantial part of his assets, gold as a store of value or as, or in lieu of, money and not for a specific and customary industrial, professional or artistic use. The Secretary of the Treasury, subject to such other regulations as he may prescribe, is authorized to issue licenses permitting the acquisition and holding by persons subject to the jurisdiction of the United States of gold bullion situated outside of the United States which the Secretary or such agency as he may designate is satisfied is required for legitimate and customary use in the industry, profession, or art in which such person is regularly engaged."

2. Notwithstanding the provisions of Section 1 of this Order, the Secretary of the Treasury is authorized to issue licenses permitting, until January 1, 1963, the holding and disposition or importation of gold coins having a recognized special value to collectors of rare and unusual coin situated outside of the United States which were acquired by persons subject to the jurisdiction of the United States prior to the effective date of this amendment and are owned by such persons on such date.

This amendment shall become effective upon filing for publication with the Office of the Federal Register.

JOHN F. KENNEDY.

35. Executive Order 11281—May 13, 1966: Transferring Jurisdiction Over Certain Blocked Assets From the Attorney General to the Secretary of the Treasury

WHEREAS before October 1, 1948, the Secretary of the Treasury administered the blocking controls and other restrictions over property and interests of certain foreign countries or their nationals that had been imposed, under the authority of section 5(b) of the Trading with the Enemy Act, as amended (50 U.S.C. App. 5(b)), by means of and under Executive Order No. 8389 of April 10, 1940, as amended; and

WHEREAS by Executive Order No. 9989 of August 20, 1948, jurisdiction over the property and interests which remained blocked or restricted under Executive Order No. 8389 on September 30, 1948, was transferred, effective October 1, 1948, to the Attorney General to aid him in carrying out his functions as successor to the Alien Property Custodian, including, among others, the function of vesting property pursuant to the provisions of the Trading with the Enemy Act, as amended; and

WHEREAS by Executive Order No. 10644 of November 7, 1955, the Attorney General was designated to carry out the functions of the President under Title II of the International Claims Settlement Act of 1949 (as added by the Act of August 9, 1955, Public Law 285, 84th Congress, 69 Stat. 562), including certain vesting and blocking functions required by section 202 of that Act (22 U.S.C. 1631a), and the Attorney General, as designee of the President, exercises controls under Executive Order No. 8389 with respect to the net proceeds of certain property that are carried, pursuant to section 202, in blocked accounts with the Treasury; and

WHEREAS the functions of vesting property under the Trading with the Enemy Act and under section 202 of the International Claims Settlement Act of 1949 have been terminated; and

WHEREAS the blocking controls now exercised by the Attorney General under Executive Order No. 8389 are limited in application to property of Hungary or its nationals acquired on or before January 1, 1945; property of Czechoslovakia, Estonia, Latvia, Lithuania or nationals of those countries acquired on or before December 7, 1945; property of East Germany or its nationals acquired on or before December 31, 1946, and certain securities scheduled in General Rulings No. 5 and No. 5B, as amended (8 CFR 511.205 and 511.205b); and

WHEREAS the Office of Alien Property, through which the Attorney General carries out or has carried out the various responsibilities described above, will be abolished on or before June 30, 1966, and the Attorney General thereafter will not be in a position to administer blocking controls under Executive Order No. 8389 efficiently; and

WHEREAS in the interest of efficiency it is desirable to return to the Secretary of the Treasury jurisdiction over the property and interests remaining subject to such blocking controls:

Now, **THEREFORE**, by virtue of the authority vested in me by the Constitution and the laws of the United States, including the Trading with the Enemy Act, as amended, Title II of the International Claims Settlement Act of 1949 and section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The authority granted to the Attorney General by Executive Order No. 9989 with respect to property and interests blocked or otherwise subject to restriction under Executive Order No. 8389 is hereby terminated and Executive Order No. 9989 is hereby superseded.

SEC. 2. The Secretary of the Treasury shall hereafter be responsible for the administration of the controls exercisable under Executive Order No. 8389, and he is authorized and directed to take such action as he may deem necessary with respect to any property or interest that remains blocked or restricted under Executive Order No. 8389 on the effective date of this order. In the performance of the functions and duties hereby reassigned to him, the Secretary of the Treasury may act personally or through any officer, person, agency or instrumentality designated by him.

SEC. 3. All orders, regulations, rulings, instructions or licenses issued prior to the effective date of this order by the Attorney General or the Secretary of the Treasury with respect to any of the property or interests referred to in Section 2 shall continue in full force and effect except as hereafter amended, modified or revoked by the Secretary of the Treasury.

SEC. 4. No person affected by any order, regulation, ruling, instruction, license or other action issued or taken by either the Attorney General or the Secretary of the Treasury in the administration of Executive Order No. 8389 may challenge the validity thereof or otherwise excuse any action, or failure to act, on the ground that it was within the jurisdiction of the Secretary of the Treasury rather than the Attorney General or *vice versa*.

SEC. 5. Section 1 of Executive Order No. 10644 of November 7, 1955, is hereby amended to read as follows:

"**SECTION 1.** (a) With the exception of the functions referred to in subsection (b) of this section, the Attorney General, and, as designated by the Attorney General for this purpose, any Assistant Attorney General are hereby designated and empowered to perform the functions conferred by Title II of the International Claims Settlement Act of 1949 upon the President, and the functions conferred by that title upon any designee of the President.

"(b) The Secretary of the Treasury, and any officer, person, agency or instrumentality designated by the Secretary of the Treasury for this purpose, are hereby designated and empowered to perform the functions conferred upon the President by section 202 of Title II with respect to the release of blocked property and of the net proceeds of property that are carried in blocked accounts with the Treasury."

SEC. 6. Executive Order No. 8389, this order and all delegations, designations, regulations, rulings, instructions and licenses issued or to be issued under Executive Order No. 8389 or this order are hereby continued in force according to their terms for the duration of the period of the national emergency proclaimed by Proclamation No. 2914

of December 16, 1950. Executive Order No. 10348 of April 26, 1952 is hereby superseded.

SEC. 7. Nothing in this order shall be deemed to revoke or limit any powers heretofore conferred on the Secretary of the Treasury by or under any statute or Executive order, or to revoke or limit any powers heretofore conferred upon the Attorney General by or under any statute or Executive order other than Executive Order No. 9989 or No. 10644.

SEC. 8. This order shall become effective at midnight, May 15, 1966.

LYNDON B. JOHNSON.

36. Executive Order 11387—January 1, 1968: Governing Certain Capital Transfers Abroad

By virtue of the authority vested in the President by section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a), and in view of the continued existence of the national emergency declared by Proclamation No. 2914 of December 16, 1950, and the importance of strengthening the balance of payments position of the United States during this national emergency, it is hereby ordered:

1. (a) Any person subject to the jurisdiction of the United States who, alone or together with one or more affiliated persons, owns or acquires as much as a 10% interest in the voting securities, capital or earnings of a foreign business venture is prohibited on or after the effective date of this Order, except as expressly authorized by the Secretary of Commerce, from engaging in any transaction involving a direct or indirect transfer of capital to or within any foreign country or to any national thereof outside the United States.

(b) The Secretary of Commerce is authorized to require, as he determines to be necessary or appropriate to strengthen the balance of payments position of the United States, that any person subject to the jurisdiction of the United States who, alone or together with one or more affiliated persons, owns or acquires as much as a 10% interest in the voting securities, capital or earnings of one or more foreign business ventures shall cause to be repatriated to the United States such part as the Secretary of Commerce may specify of (1) the earnings of such foreign business ventures which are attributable to such person's investments therein and (2) bank deposits and other short term financial assets which are held in foreign countries by or for the account of such person. Any person subject to the jurisdiction of the United States is required on or after the effective date of this Order, to comply with any such requirement of the Secretary of Commerce.

(c) The Secretary of Commerce shall exempt from the provisions of this section 1, to the extent delineated by the Board of Governors of the Federal Reserve System (hereinafter referred to as the Board), banks or financial institutions certified by the Board as being subject to the Federal Reserve Foreign Credit Restraint Programs, or to any program instituted by the Board under section 2 of this Order.

2. The Board is authorized in the event that it determines such action to be necessary or desirable to strengthen the balance of payments position of the United States:

(a) to investigate, regulate or prohibit any transaction by any bank or other financial institution subject to the jurisdiction of the United States involving a direct or indirect transfer of capital to or within any foreign country or to any national thereof outside the United States; and

(b) to require that any bank or financial institution subject to the jurisdiction of the United States shall cause to be repatriated to the

United States such part as the Board may specify of the bank deposits and other short term financial assets which are held in foreign countries by or for the account of such bank or financial institution. Any bank or financial institution subject to the jurisdiction of the United States shall comply with any such requirement of the Board on and after its effective date.

3. The Secretary of Commerce and the Board are respectively authorized, under authority delegated to each of them under this Order or otherwise available to them, to carry out the provisions of this Order, and to prescribe such definitions for any terms used herein, to issue such rules and regulations, orders, rulings, licenses and instructions, and to take such other actions, as each of them determines to be necessary or appropriate to carry out the purposes of this Order and their respective responsibilities hereunder. The Secretary of Commerce and the Board may each redelegate to any agency, instrumentality or official of the United States any authority under this Order, and may, in administering this Order, utilize the services of any other agencies, Federal or State, which are available and appropriate.

4. The Secretary of State shall advise the Secretary of Commerce and the Board with respect to matters under this Order involving foreign policy. The Secretary of Commerce and the Board shall consult as necessary and appropriate with each other and with the Secretary of the Treasury.

5. The delegations of authority in this Order shall not affect the authority of any agency or official pursuant to any other delegation of presidential authority, presently in effect or hereafter made, under section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a).

LYNDON B. JOHNSON.

THE WHITE HOUSE

10:45 a.m.,

Jan. 1, 1968,

L. B. J. Ranch

37. Executive Order 11677—August 1, 1972: Continuing the Regulation of Exports

By virtue of the authority vested in the President by the Constitution and statutes of the United States, including Section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a), and in view of the continued existence of the national emergencies declared by Proclamation No. 2914 of December 16, 1950, and Proclamation No. 4074 of August 15, 1971, and the importance of continuing (a) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States; (b) to further significantly the foreign policy of the United States and to aid in fulfilling its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious inflationary impact of abnormal foreign demand, it is hereby ordered:

SECTION. 1. Notwithstanding the expiration of the Export Administration Act of 1969, as amended, the provisions for administration of that act contained in Executive Order 11533 of June 4, 1970 shall continue in full force and effect and shall authorize the exercise and administration of export controls, under the authority vested in me as President of the United States by section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a).

SEC. 2. Except to the extent another basis is provided in the second sentence of Section 3 of this order, all rules and regulations issued by the Secretary of Commerce, published in Title 15, Chapter 3, Subchapter B, of the Code of Federal Regulations, Parts 368 to 399 inclusive, and all orders, licenses and other forms of administrative action issued or taken pursuant thereto, shall until amended or revoked by the Secretary of Commerce, remain in full force and effect, the same as if issued or taken pursuant to this order, except that the maximum fine which may be imposed under § 387.1(a)(1) shall not exceed \$10,000 and that the civil penalty provided for under § 387.1(b)(3) will not be applicable to any violation of the regulations under this order.

SEC. 3. The delegations of authority in this order shall not affect the authority of any agency or official pursuant to any other delegation of Presidential authority, presently in effect or hereafter made, under Section 5(b) of the act of October 6, 1917, as amended. Those regulations issued under the Export Control Act of 1949, as amended, to implement foreign policy set forth in Executive Orders Nos. 11322 of January 5, 1967 and 11419 of July 29, 1968, shall until amended or revoked by the Secretary of Commerce continue to apply as regulations issued under such orders.

RICHARD NIXON.

THE WHITE HOUSE,
August 1, 1972.

38. Executive Order 11683—August 29, 1972: Revoking Executive Order No. 11677 of August 1, 1972, and Continuing in Effect Executive Order No. 11533 of June 4, 1970, Relating to the Administration of Export Controls

By virtue of the authority vested in the President by the Constitution and statutes of the United States, including the statutes referred to herein, it is hereby ordered:

SECTION 1. Executive Order No. 11677¹ of August 1, 1972, issued under the authority of the act of October 6, 1917, as amended (12 U.S.C. 95a), is hereby revoked, except that this revocation shall not affect any violation of any rules, regulations, orders, licenses, and other forms of administrative action under said order which occurred during the period said order was in effect.

SEC. 2. Pursuant to the Equal Export Opportunity Act, effective as of the close of July 31, 1972, Executive Order No. 11533² of June 4, 1970, and all delegations, redelegations, rules, regulations, orders, licenses, and other forms of administrative action under said order which were in effect on July 31, 1972, and which have not been revoked administratively or legislatively, are continued and shall be in full force and effect until amended, modified, or terminated by proper authority.

RICHARD NIXON.

THE WHITE HOUSE,
August 29, 1972.

¹ 37 F.R. 15483.

² 35 F.R. 8799: 3 CFR, 1970 Comp., p. 134.

39. Executive Order 11796—July 30, 1974: Continuing the Regulation of Exports

By virtue of the authority vested in the President by the Constitution and statutes of the United States, including section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a), and in view of the continued existence of the national emergencies declared by Proclamation No. 2914 of December 16, 1950, and Proclamation No. 4074 of August 15, 1971, and the importance of continuing (a) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States; (b) to further significantly the foreign policy of the United States and to aid in fulfilling its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious inflationary impact of abnormal foreign demand, it is hereby ordered:

SECTION 1. Notwithstanding the expiration of the Export Administration Act of 1969, as amended, the provisions for administration of that act contained in Executive Order 11533 of June 4, 1970 as continued in effect by Executive Order 11683 of August 29, 1972, shall continue in full force and effect and shall authorize the exercise and administration of export controls, under the authority vested in me as President of the United States by section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a).

SEC. 2. Except to the extent another basis is provided in the second sentence of section 3 of this order, all rules and regulations issued by the Secretary of Commerce, published in title 15, chapter III, subchapter B of the Code of Federal Regulations, parts 368 to 399 inclusive, and all orders, regulations, licenses and other forms of administrative action issued or taken pursuant thereto, shall until amended or revoked by the Secretary of Commerce, remain in full force and effect, the same as if issued or taken pursuant to this order, except that the maximum fine which may be imposed under part 387.1.(a)(1) shall not exceed \$10,000 and that the civil penalty provided for under part 387.1(b)(3) will not be applicable to any violation of the regulations under this order.

SEC. 3. The delegations of authority in this order shall not affect the authority of any agency or official pursuant to any other delegation of Presidential authority, presently in effect or hereafter made, under section 5(b) of the act of October 6, 1917, as amended. Those regulations issued under the Export Control Act of 1949, as amended, to implement foreign policy set forth in Executive Orders Nos. 11322 of January 5, 1967 and 11419 of July 29, 1968, shall until amended or revoked by the Secretary of Commerce continue to apply as regulations issued under such orders.

RICHARD NIXON.

THE WHITE HOUSE,
July 30, 1974.

40. Executive Order 11798—August 14, 1974: Revoking Executive Order No. 11796¹ of July 30, 1974, and Continuing in Effect Executive Order No. 11533² of June 4, 1970, Relating to the Administration of Export Controls

By virtue of the authority vested in the President by the Constitution and statutes of the United States, including the statutes referred to herein, it is hereby ordered:

SECTION 1. Executive Order No. 11796 of July 30, 1974, issued under the authority of the act of October 6, 1917, as amended (12 U.S.C. 95a), is hereby revoked, except that this revocation shall not affect any violation of any rules, regulations, orders, licenses, and other forms of administrative action under said order which occurred during the period said order was in effect.

SEC. 2. Pursuant to Public Law 93-372 of August 14, 1974, effective as of the close of July 30, 1974, Executive Order No. 11533 of June 4, 1970, and all delegations, redelegations, rules, regulations, orders, licenses, and other forms of administrative action under said order which were in effect on July 30, 1974, and which have not been revoked administratively or legislatively, are continued and shall be in full force and effect until amended, modified, or terminated by proper authority.

GERALD R. FORD.

THE WHITE HOUSE,
August 14, 1974.

¹ 39 FR 27891.

² 35 FR 8799; 3 CFR, 1966-1970 Comp., p. 932.

41. Executive Order 11810—September 30, 1974: Continuing the Regulation of Exports

By virtue of the authority vested in the President by the Constitution and statutes of the United States, including section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a), and in view of the continued existence of the national emergencies declared by Proclamation No. 2914 of December 16, 1950, and Proclamation No. 4074 of August 15, 1971, and the importance of continuing (a) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States; (b) to further significantly the foreign policy of the United States and to aid in fulfilling its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious inflationary impact of abnormal foreign demand, it is hereby ordered:

SECTION 1. Notwithstanding the expiration of the Export Administration Act of 1969, as amended, the provisions for administration of that act contained in Executive Order No. 11533 of June 4, 1970 as continued in effect by Executive Order No. 11683 of August 29, 1972, shall continue in full force and effect and shall authorize the exercise and administration of export controls, under the authority vested in me as President of the United States by section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a).

SEC. 2. Except to the extent another basis is provided in the second sentence of section 3 of this Order, all rules and regulations issued by the Secretary of Commerce, published in title 15, chapter III, subchapter B, of the Code of Federal Regulations, parts 368 to 399 inclusive, and all orders, regulations, licenses and other forms of administrative action issued or taken pursuant thereto, shall until amended or revoked by the Secretary of Commerce, remain in full force and effect, the same as if issued or taken pursuant to this Order, except that the maximum fine which may be imposed under part 387.1(a)(1) shall not exceed \$10,000 and that the civil penalty provided for under part 387.1(b)(3) will not be applicable to any violation of the regulations under this Order.

SEC. 3. The delegations of authority in this Order shall not affect the authority of any agency or official pursuant to any other delegation of Presidential authority, presently in effect or hereafter made, under section 5(b) of the act of October 6, 1917, as amended. Those regulations issued under the Export Control Act of 1949, as amended, to implement foreign policy set forth in Executive Orders Nos. 11322 of January 5, 1967 and 11419 of July 29, 1968, shall until amended or revoked by the Secretary of Commerce continue to apply as regulations issued under such orders.

GERALD R. FORD.

THE WHITE HOUSE.
September 30, 1974.

42. Executive Order 11818—November 5, 1974: Revoking Executive Order No. 11810 of September 30, 1974, and Continuing in Effect Executive Order No. 11533 of June 4, 1970, Relating to the Administration of Export Control

By virtue of the authority vested in the President by the Constitution and statutes of the United States, including the statutes referred to herein, it is hereby ordered:

SECTION 1. Executive Order No. 11810 of September 30, 1974, issued under the authority of the act of October 6, 1917, as amended (12 U.S.C. 95a), is hereby revoked, except that this revocation shall not affect any violation of any rules, regulations, orders, licenses, and other forms of administrative action under that order which occurred during the period that order was in effect.

SEC. 2. Pursuant to Public Law 93-500 of October 29, 1974, effective as of the close of September 30, 1974, Executive Order No. 11533 of June 4, 1970, as continued in effect by Executive Order No. 11683 of August 2, 1972, and Executive Order No. 11798 of August 14, 1974, and all delegations, redelegations, rules, regulations, orders, licenses, and other forms of administrative action under those orders which were in effect on September 30, 1974, and which have not been revoked administratively or legislatively, are continued and shall be in full force and effect until amended, modified, or terminated by proper authority.

GERALD R. FORD.

THE WHITE HOUSE,
November 5, 1974.

43. Executive Order 11825—December 31, 1974: Revocation of Executive Orders Pertaining to the Regulation of the Acquisition of, Holding of, or Other Transactions in Gold

By virtue of the authority vested in me by section 1 of the Act of August 8, 1950, 64 Stat. 419, and section 5(b) of the Act of October 6, 1917, as amended (12 U.S.C. 95a), and as President of the United States, and in view of the provisions of section 3 of Public Law 93-110, 87 Stat. 352, as amended by section 2 of Public Law 93-373, 88 Stat. 445, it is ordered as follows:

SECTION 1. Executive Order No. 6260 of August 28, 1933, as amended by Executive Order No. 6359 of October 25, 1933, Executive Order No. 6556 of January 12, 1934, Executive Order No. 6560 of January 15, 1934, Executive Order No. 10896 of November 29, 1960, Executive Order No. 10905 of January 14, 1961, and Executive Order No. 11037 of July 20, 1962; the fifth and sixth paragraphs of Executive Order No. 6073, March 10, 1933; sections 3 and 4 of Executive Order No. 6359 of October 25, 1933; and paragraph 2(d) of Executive Order No. 10289 of September 17, 1951, are hereby revoked.

SEC. 2. The revocation, in whole or in part, of such prior Executive orders relating to regulation on the acquisition of, holding of, or other transactions in gold shall not affect any act completed, or any right accruing or accrued, or any suit or proceeding finished or started in any civil or criminal cause prior to the revocation, but all such liabilities, penalties, and forfeitures under the Executive orders shall continue and may be enforced in the same manner as if the revocation had not been made.

This order shall become effective on December 31, 1974.

GERALD R. FORD.

THE WHITE HOUSE,
December 31, 1974.

44. Executive Order 11940—September 30, 1976: Continuing the Regulation of Exports

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a, 50 U.S.C. App. 5(b)), and as President of the United States of America, and in view of the continued existence of the national emergencies declared by Presidential Proclamation No. 2914 of December 16, 1950, and Presidential Proclamation No. 4074 of August 15, 1971, and the importance of continuing (a) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States; (b) to further significantly the foreign policy of the United States and to fulfill its international responsibilities; and (c) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious inflationary impact of foreign demand, it is hereby ordered as follows:

SECTION 1. Notwithstanding the expiration of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401-2413), the provisions for administration of that act contained in Executive Order No. 11533 of June 4, 1970, as continued in effect by Executive Orders Nos. 11683 of August 29, 1972, 11798 of August 14, 1974, and 11818 of November 5, 1974, and as amended by Executive Order No. 11907 of March 1, 1976, shall continue in full force and effect and shall authorize the exercise and administration of export controls, under the authority vested in me as President of the United States of America by section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a, 50 U.S.C. App. 5(b)).

SEC. 2. Except to the extent another basis is provided in the second sentence of section 4 of this order, all rules and regulations issued by the Secretary of Commerce under the authority of the Export Administration Act of 1969, as amended, including those published in Title 15, Chapter III, Subchapter B, of the Code of Federal Regulations, Parts 368 to 399 inclusive, and all orders, regulations, licenses and other forms of administrative action issued or taken pursuant thereto, shall until amended or revoked by the Secretary of Commerce, remain in full force and effect, the same as if issued or taken pursuant to this Order, except that the maximum fine which may be imposed under section 387.1(a)(1) of Title 15, Code of Federal Regulations, shall not exceed \$10,000 and that the civil penalty provided for under section 387.1(b)(3) thereof will not be applicable to any violation of the regulations under this Order.

SEC. 3. Provisions for the administration of Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a, 50 U.S.C. App. 5(b)), and this Order shall constitute

authority for the issuance and continuation in full force and effect of rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative actions issued or taken pursuant thereto, relating to the administration of section 38(e) of the Arms Export Control Act.

SEC. 4. The delegations of authority in this order shall not affect the authority of any agency or official pursuant to any other delegation of Presidential authority, presently in effect or hereafter made, under section 5(b) of the act of October 6, 1917, as amended. Those regulations issued under the Export Control Act of 1949, as amended, to implement foreign policy set forth in Executive Orders Nos. 11322 of January 5, 1967 and 11419 of July 29, 1968, shall until amended or revoked by the Secretary of Commerce continue to apply as regulations issued under such orders.

GERALD R. FORD.

THE WHITE HOUSE.
September 30, 1976.

PART III

REGULATIONS GOVERNING FINANCIAL TRANSACTIONS ISSUED UNDER THE AUTHORITY OF SECTION 5(b) OF THE TRADING WITH THE ENEMY ACT (TITLE 31 C.F.R.)

A. Part 121—Emergency Banking Regulations

Sec.

- 121.1 Exchange of currency by banks.
- 121.2 Access to safety deposit boxes.
- 121.3 Return of items received after closing.
- 121.4 Cashing of checks drawn on Treasurer of United States.
- 121.5 Settlement of obligations payable at banks.
- 121.6 Transactions relating to shipment of food.
- 121.7 Deposits received pursuant to agreement or legislative authority; new deposits; special accounts opened by Federal Reserve banks.
- 121.8 Settlement for checks charged to drawers' accounts on or before March 4, 1933.
- 121.9 Delivery of documents and securities.
- 121.10 Exercise of banking functions necessary to meet needs for food, medicine, and other necessities of life.
- 121.11 Advances to bank branches in foreign countries.
- 121.12 Permission to issue certificates against sound assets of banks.
- 121.14 Operations of Federal Reserve banks as fiscal agents of the United States.
- 121.15 Redeposit of deposits received pursuant to agreement or legislative authority.
- 121.16 Payment on subscriptions for Treasury bills of the United States.
- 121.17 Payment of checks by crediting owners' accounts.
- 121.18 Subscription and payment for United States Government obligations; redemption of United States obligations.
- 121.19 Substitution or release of collateral.
- 121.20 Opening of Federal Reserve banks and their branches.
- 121.21 Opening of banking institutions not members of the Federal Reserve System or organized under the laws of the United States and which are not under State supervision.
- 121.22 Opening of Federal land banks, Federal intermediate credit banks, etc.; delivery of gold coin, bullion, and certificates.
- 121.23 Withdrawals for hoarding.
- 121.24 Official drafts drawn upon Secretary of State.
- 121.26 Transfer of payments of fees relating to patents, trade-marks, and designs.
- 121.27 Withdrawals from member State banks not licensed to open.
- 121.28 Modifying §§ 121.6, 121.10.
- 121.29 Renewal of notes previously rediscounted or pledged.
- 121.30 Limited functions by banks controlled by conservators or State officials.
- 121.31 Functions of non-licensed member banks as trustee, executor, etc.
- 121.32 Withdrawal of secured deposits from non-licensed State member banks.

AUTHORITY: The provisions of this Part 121 issued under sec. 5 (b), 40 Stat. 415, as amended, secs. 1, 2, 3, 4, 13, 48 Stat. 1, 2, 343; 12 U.S.C. 95, 95a, 95b, 213, 248 (n), 50 U.S.C. App. 5, Proclamation 2039, March 6, 1933, Proclamation 2040, March 9, 1933, unless otherwise noted.

§ 121.1 Exchange of currency by banks.

All Federal Reserve banks and all other banking institutions are authorized to make change by the exchange of currency and/or coin of various denominations for an exactly equal amount of currency and/or coin of other denominations, but no gold or gold certificates shall be paid out in making change.

[Emergency Banking Reg. 1, Mar. 6, 1933]

§ 121.2 Access to safety deposit boxes.

All banking institutions may allow their customers free access to the safety deposit boxes and safes rented to such customers.

[Emergency Banking Reg. 2, Mar. 6, 1933]

§ 121.3 Return of items received after closing.

All banking institutions may upon request return intact and without restriction all cash, checks, and other items delivered for deposit or collection which were received after the last closing of business hours and have not been entered on the books of such banking institution.

[Emergency Banking Reg. 3, Mar. 6, 1933]

§ 121.4 Cashing of checks drawn on Treasurer of United States.

All banking institutions may continue, in accordance with usual practice, to cash checks drawn on the Treasurer of the United States: *Provided*, That no gold or gold certificates shall be paid out.

[Emergency Banking Reg. 4, Mar. 6, 1933]

§ 121.5 Settlement of obligations payable at banks.

Any banking institution may accept payments in cash or any other form acceptable to it on account or in settlement of obligations payable at or to such institution.

[Emergency Banking Reg. 5, Mar. 6, 1933]

§ 121.6 Transactions relating to shipment of food.

Any banking institution may handle and collect drafts or other documents in connection with the shipment, transportation or delivery of food or feed products, may pay out or permit the withdrawal of such amounts of currency as shall be necessary in the judgment of such banking institution in connection with such shipment, transportation or delivery of food or feed products, and may perform such other banking functions as may be essential to the shipment, transportation or delivery of food or feed products. *Provided, however*, That no banking institution shall pay out or permit the withdrawal of any gold or gold certificates.

[Emergency Banking Reg. 6, Mar. 7, 1933]

CROSS REFERENCE: For modification of § 121.6, see § 121.28.

§ 121.7 Deposits received pursuant to agreement or legislative authority; new deposits; special accounts opened by Federal Reserve banks.

Deposits heretofore received by any banking institution pursuant to agreement or legislative authority providing for segregation and for repayment without restriction may be paid on demand. Any banking institution which was lawfully engaged in the business of receiving deposits prior to March 6, 1933, may create special trust accounts for the receipt of new deposits which shall be subject to withdrawal on demand without any restriction or limitation and shall be kept separately in cash or on deposit in Federal Reserve banks or invested in obligations of the United States. Federal Reserve banks may open special accounts on their books for their member banks and temporarily for nonmember banks and may receive in such special accounts the proceeds of new deposits received by such banking institutions. In making deposits with the Federal Reserve bank pursuant to this section, the depositing bank shall in the case of each deposit indicate to the Federal Reserve bank by symbol or otherwise that the funds so deposit represent new deposits made under this section. Upon receipt

of such deposits such Federal Reserve bank shall credit the same in the special account of the depositing bank herein provided for and shall hold the same solely for repayment to such bank. Federal Reserve banks shall permit the withdrawal of any part or all of such new deposits by the depositing bank without restriction provided that the depositing bank shall in such order or request for withdrawal indicate to the Federal Reserve bank by symbol or otherwise that such withdrawal is to be made from such special account: *Provided, however,* That no banking institution shall pay out or permit the withdrawal of any gold or gold certificates.

[Emergency Banking Reg. 7, Mar. 6, 1933]

CROSS REFERENCE: For redeposit of deposits received pursuant to agreement or legislative authority, see § 121.15.

§ 121.8 Settlement for checks charged to drawers' accounts on or before March 4, 1933.

Where settlement for checks charged by drawee institutions to the drawers' accounts on its books on or before March 4, 1933, is incomplete, settlement may be completed where such settlement does not involve the payment of money or currency.

[Emergency Banking Reg. 8, Mar. 7, 1933]

§ 121.9 Delivery of documents and securities.

Any banking institution may deliver to the person entitled thereto properly identified documents and securities held by such institution for safekeeping.

[Emergency Banking Reg. 9, Mar. 7, 1933]

§ 121.10 Exercise of banking functions necessary to meet needs for food, medicine, and other necessities of life.

(a) Any national or State banking institution may exercise its usual banking functions to such extent as its situation shall permit and as shall be absolutely necessary to meet the needs of its community for food, medicine, other necessities of life, for the relief of distress, for the payment of usual salaries and wages for necessary current expenditures for the purpose of maintaining employment, and for other similar essential purposes. Banking institutions may carry out such transactions as may be necessary to aid banking institutions in other communities to meet the necessities set forth above: *Provided, however,* That (1) every precaution shall be taken to prevent hoarding or the unnecessary withdrawal of currency; (2) no State banking institution shall engage in any transaction under this section which is in violation of State or Federal law or of any regulation issued thereunder; (3) no national banking association shall engage in any transaction under this section which is in violation of any Federal law or of any order or regulation issued by the Comptroller of the Currency; and (4) no gold or gold certificates shall be paid out. Each banking institution and its directors and officers will be held strictly accountable for faithful compliance with the spirit and purpose as well as the letter of this section.

(b) Federal Reserve banks may carry on such functions as may be necessary to facilitate transactions authorized by this section.

(c) In order to enable member banks of the Federal Reserve System to meet the needs of their respective communities to the extent authorized by this section Federal Reserve banks may make advances

to such member banks under the conditions set forth in section 10(b) of the Federal Reserve Act, as amended by the act of March 9, 1933, and in accordance with authority granted by the Federal Reserve Board.

(d) In addition, in order to enable individuals, partnerships and corporations to meet their immediate pay-roll requirements, Federal Reserve banks may make temporary advances to such individuals, partnerships and corporations on their promissory notes secured by direct obligations of the United States in accordance with authority granted by the Federal Reserve Board.

[Emergency Banking Reg. 10, Mar. 7, 1933, as amended Mar. 10, 1933]

CROSS REFERENCE: For modification of § 121.10, see § 121.28.

§ 121.11 Advances to bank branches in foreign countries.

Any bank having a branch in a foreign country may deposit collateral in the United States to secure advances to such branch in a foreign country, provided such transaction does not involve any transfer of credit from the United States to a foreign country and any bank having a branch in an insular possession of the United States may deposit United States Government securities or other collateral for a similar purpose when under the President's proclamation advances of local currency in the insular possession may lawfully be made.

[Emergency Banking Reg. 11, Mar. 7, 1933]

§ 121.12 Permission to issue certificates against sound assets of banks.

Clearing house associations and other associations organized to provide an adequately secured medium of temporary exchange, are hereby permitted to issue certificates against sound assets of banking institutions, such certificate to be deliverable by each institution to its creditors and depositors on a pro rata basis: *Provided, however*, That no such certificates shall be issued before Friday, March 10, 1933, without the consent of the Secretary of the Treasury addressed to the clearing house or other association proposing to issue such certificates: *And further provided*, That this permission may be revoked in the event that a national plan to meet the existing emergency is proposed by the Secretary of the Treasury if in his opinion the success of such plan would be inconsistent with the operation of the certificate plan.

[Emergency Banking Reg. 12, Mar. 7, 1933]

§ 121.14 Operations of Federal Reserve banks as fiscal agents of the United States.

Federal Reserve banks are authorized to conduct their normal and usual operations as fiscal agents of the United States in transactions pertaining to the exchange of obligations of the United States, such as making exchange of denominations, exchanging coupon for registered bonds, and vice versa, receiving registered bonds for transfer and effecting C. P. D. transactions.

[Emergency Banking Reg. 14, Mar. 7, 1933]

§ 121.15 Redeposit of deposits received pursuant to agreement or legislative authority.

The permission granted in § 121.7 that deposits heretofore received by any banking institution pursuant to agreement or legislative authority providing for segregation and repayment without restriction may be paid on demand, includes any bank in which any such deposits

have been redeposited by or on behalf of the receiving bank in accordance with such agreement or legislative authority.

[Emergency Banking Reg. 15, Mar. 8, 1933]

CROSS REFERENCE: For deposits received pursuant to agreement or legislative authority, see § 121.7.

§ 121.16 Payment on subscriptions for Treasury bills of the United States.

All banking institutions are hereby authorized to take such steps and carry through such transactions as may be necessary to complete for their own account, or the account of their customers, payment on any subscriptions for Treasury bills of the United States for which payment was due on March 6, 1933.

[Emergency Banking Reg. 16, Mar. 10, 1933]

§ 121.17 Payment of checks by crediting owners' accounts.

Any banking institution may, when the owners consent thereto, pay checks issued prior to March 6, 1933, and received in due course of business by the drawee banking institution, by charging the amounts thereof to the accounts of the drawers and crediting such amounts to the accounts of such owners on the books of the drawee banking institution.

[Emergency Banking Reg. 17, Mar. 10, 1933]

§ 121.18 Subscription and payment for United States Government obligations; redemption of United States obligations.

(a) All banking institutions are hereby authorized to subscribe and pay for any United States Government obligations which may be offered for subscription and sale by the Secretary of the Treasury. Federal Reserve banks may carry on such functions as may be necessary to facilitate such transactions as are authorized by this section.

(b) All Federal Reserve banks are authorized to redeem matured obligations of the United States and to cash matured coupons provided no gold or gold certificates shall be paid out.

[Emergency Banking Reg. 18, Mar. 11, 1933]

§ 121.19 Substitution or release of collateral.

Except as otherwise prohibited by law, banking institutions may exercise their normal and usual functions in permitting substitution for or release of collateral held by them, provided other collateral or cash of equal or greater value is received in exchange therefor.

[Emergency Banking Reg. 19, Mar. 11, 1933]

§ 121.20 Opening of Federal Reserve banks and their branches.

All Federal Reserve banks and their branches and agencies may open March 13, 1933, and may remain open for the performance of all usual and normal banking functions except as prohibited by the Executive order issued by the President on March 10, 1933 (§ 120.3), and any further orders or regulations hereafter issued.

[Emergency Banking Reg. 20, Mar. 11, 1933]

§ 121.21 Opening of banking institutions not members of the Federal Reserve System or organized under the laws of the United States and which are not under State supervision.

Banking institutions where are not members of the Federal Reserve System or organized under the laws of the United States and which

are not under the immediate supervision of any State authority may, on and after March 13, 1933, carry on their normal and usual functions, except as otherwise prohibited and except that no such institution shall pay out any gold coin, gold bullion or gold certificates, unless authorized by the Secretary of the Treasury, nor allow withdrawal of any currency for hoarding, nor engage in any transaction in foreign exchange except such as may be undertaken for legitimate and normal business requirements, for reasonable traveling and other personal requirements, and for fulfillment of contracts entered into prior to March 6, 1933.

[Emergency Banking Reg. 21, Mar. 11, 1933]

§ 121.22 Opening of Federal land banks, Federal intermediate credit banks, etc.; delivery of gold coin, bullion, and certificates.

(a) All Federal land banks, Federal intermediate credit banks, joint stock land banks, Federal home loan banks, corporations organized under section 25(a) of the Federal Reserve Act, regional agricultural credit corporations and the Reconstruction Finance Corporation are hereby permitted to open at 9 o'clock, a. m., Monday, March 13, 1933, to perform their usual banking functions except to the extent prohibited by the Executive order of the President of the United States, issued March 10, 1933 (§ 120.3), by Federal or State law, or as may hereafter be limited or prohibited by regulations promulgated by the Secretary of the Treasury.

(b) This permission, as to each of the foregoing banking institutions, may be revoked in whole or in part by the Secretary of the Treasury at any time, and is granted as to each such institution upon the express condition that such institution shall deliver, within 30 days from the date hereof, to the Treasury of the United States or to a Federal Reserve bank or a Federal Reserve branch bank of the district in which it is located, all gold coin, gold bullion and gold certificates owned by it, and receive payment in credit or in other form of coin or in currency.

[Emergency Banking Reg. 22, Mar. 11, 1933, as amended Mar. 13, 1933]

CROSS REFERENCE: For Federal land banks, Federal intermediate credit banks, etc., see 12 CFR chapter VI.

§ 121.23 Withdrawals for hoarding.

No banking institution shall permit any withdrawal by any person when such institution, acting in good faith, shall deem that the withdrawal is intended for hoarding. Any banking institution, before permitting the withdrawal of large or unusual amounts of currency, may require from the person requesting such withdrawal, a full statement under oath of the purpose for which the currency is requested.

[Emergency Banking Reg. 23, Mar. 13, 1933]

§ 121.24 Official drafts drawn upon Secretary of State.

All banking institutions may cash official drafts drawn upon the Secretary of State for payment of salaries, traveling and other contingent expenses but not for personal account, and remit the amounts thereof to the banks from which the drafts are received, provided that no gold or gold certificates shall be paid out.

[Emergency Banking Reg. 24, Mar. 13, 1933]

§ 121.26 Transfer of payments of fees relating to patents, trade-marks, and designs.

All banking institutions may issue drafts transferring credits from any place in the United States to any other place in the United States and from any place in the United States to any place in a foreign country in connection with payments for domestic and foreign patent, trade-mark and design application fees, and in payment for domestic and foreign patent and trade-mark taxes and renewals. No gold or gold certificates shall be paid out, withdrawn, or exported under this section.

[Emergency Banking Reg. 26, Mar. 13, 1933]

§ 121.27 Withdrawals from member State banks not licensed to open.

(a) Any State banking institution which is a member of the Federal Reserve System and which is not licensed by the Secretary of the Treasury to reopen for the performance of usual banking functions may, with the approval of the appropriate State authority having immediate supervision of such banking institution, permit withdrawals by depositors and make payments to creditors of such percentage of the amounts due to them (not exceeding 5 percent) as it may determine: *Provided*, That at or before the time of such withdrawal or payment it shall set aside and make available for such purpose a fund for the benefit of and sufficient to pay to all depositors and creditors the percentage so determined.

(b) This section shall not in any way affect any right created by § 121.7 nor limit or restrict any payment thereby authorized.

(c) Any right to authorize withdrawals or payments under the terms of this section shall terminate upon the appointment of any conservator, receiver or other appropriate State official taking charge of the affairs of such banking institutions.

[Emergency Banking Reg. 27, Mar. 18, 1933]

§ 121.28 Modifying §§ 121.6, 121.10.

After the close of business on March 18, 1933, Treasury Regulation No. 6 (§ 121.6) and Treasury Regulation No. 10, as amended (§ 121.10), shall be without force or effect to authorize any banking transaction therein referred to.

[Emergency Banking Reg. 28, Mar. 18, 1933]

§ 121.29 Renewal of notes previously rediscounted or pledged.

Any banking institution which is a member of the Federal Reserve System and is not licensed to perform usual banking functions may rediscount or pledge with another banking institution renewals of notes which were previously rediscounted or pledged with such other banking institution.

[Emergency Banking Reg. 28, Mar. 18, 1933]

§ 121.30 Limited functions by banks controlled by conservators or State officials.

(a) Banking institutions which are members of the Federal Reserve System and of which actual possession and control have been taken (1) by conservators appointed pursuant to the act of March 9, 1933, or (2) by appropriate State officials appointed pursuant to State law, as permitted by the President's Executive Order 6080 of March 18,

1933 (§ 120.4), are permitted to transact such limited banking functions as may be authorized in accordance with law by the Comptroller of the Currency, in the case of national banks, or by the appropriate State officials, in the case of State member banks; *Provided, however*, That no such banking institution shall reopen for the performance of its usual and normal functions until it shall have received a license from the Secretary of the Treasury.

(b) This section shall not authorize any transaction with respect to the export or paying out of gold, or gold certificates, withdrawal of currency for hoarding or transactions in foreign exchange prohibited or restricted by the Executive Order 6073 of March 10, 1933 (§ 120.3).

[Emergency Banking Reg. 30, Mar. 28, 1933]

§ 121.31 Functions of non-licensed member banks as trustee, executor, etc.

Any banking institution which is a member of the Federal Reserve System and is not licensed to perform usual banking functions, but which is duly authorized to engage in the business of acting as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity, may transact such business in the normal and usual manner and may make payments on account of the principal or income of trust or other fiduciary funds to the persons entitled thereto: *Provided*, That, except to the extent permitted by other emergency banking regulations, no such banking institution shall withdraw or pay out any trust or other fiduciary funds on deposit with any other department of such banking institution or make any other payment in connection with any trust or other fiduciary funds which would operate to discharge, as a whole or in part, any indebtedness, as distinguished from any trust or other fiduciary duty, of such banking institution.

[Emergency Banking Reg. 31, Mar. 30, 1933]

§ 121.32 Withdrawal of secured deposits from non-licensed State member banks.

(a) Any State bank which is a member of the Federal Reserve System, and is not licensed by the Secretary of the Treasury to perform usual banking functions may permit withdrawals of deposits which are lawfully secured by collateral: *Provided*, That such withdrawals are (1) permissible under applicable law, (2) duly authorized by the board of directors of such bank, upon such terms with respect to the release of collateral as will fully protect all depositors and other creditors against the creation of any preferences, and (3) approved by the appropriate State authority having supervision of such bank.

(b) Any such bank is authorized to carry on such usual banking functions as may be essential to allow the withdrawals permitted by this section, subject to the provisions and restrictions set forth in this part and except as otherwise prohibited.

[Emergency Banking Reg. 32, Mar. 30, 1933]

B. Part 122—General Licenses Issued Under Executive Order 6073, as Amended

§ 122.1 General license to transact normal banking business.

A general license to transact normal banking business is hereby granted to all banks hereafter authorized to begin business by the Comptroller of the Currency, effective upon the date of such authorization, and to all State banks hereafter admitted to membership in the Federal Reserve System, effective upon the date of such admission, except:

(a) To the extent prohibited in Executive Order 6073 of the President of the United States issued on March 10, 1933, as amended by Proclamation 2070 of December 30, 1933, and by Executive Order 6559 of January 15, 1934. (§§ 120.3 and 120.5 of this chapter);

(b) To the extent limited or prohibited by any Executive order of the President or by regulations of the Secretary of the Treasury.

This license may be revoked in whole or in part by the Secretary of the Treasury at any time.

(Sec. 5(b), 40 Stat. 415, as amended, sec. 4, 48 Stat. 2; 12 U.S.C. 95a, 95. E.O. 6073, Mar. 10, 1933, as amended) [11 F.R. 296, Jan. 5, 1946]

NOTE: § 120.7 of this chapter (Proclamation 2725) excludes member banks of the Federal Reserve System from the scope of E.O. 6073.

C. Part 127—Executive Order of January 15, 1934, Regulating Transactions in Foreign Exchange, Transfers of Credit, and Export of Coin and Currency

GENERAL

Sec.

- 127.0 General.
- 127.1 Prohibitions.
- 127.2 Possessions of the United States.
- 127.3 Licenses.
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PROHIBITIONS

- 127.9 Additional prohibitions.
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- 127.11 Definitions of "foreign country" and "effective date."
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- 127.13 Additional definitions.
- 127.14 Executive Order No. 8389 no longer deemed part of Executive Order 6560.
- 127.15 Additional regulations.
- 127.16 Penalties.
- 127.17 Modification or revocation.

AUTHORITY : The provisions of this Part 127 issued under sec. 5(b), 40 Stat. 415, as amended, sec. 13, 48 Stat. 343; 12 U.S.C. 95a, 213, E.O. 6260, Aug. 28, 1933.

CROSS REFERENCE : For transactions in foreign exchange, transfers of credit, and the export of coin and currency, see Part 128 of this chapter.

GENERAL

SOURCE : §§ 127.0 to 127.7 contained in Executive Order 6560, Jan. 15, 1934, unless otherwise noted.

§ 127.0 General.

I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency continues to exist, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following regulations for the investigation, regulation, and prohibition of transactions in foreign exchange, transfers of credit between or payments by banking institutions as herein defined, and export of currency or silver coin, by any person within the United States or any place subject to the jurisdiction thereof.

§ 127.1 Prohibitions.

Every transaction in foreign exchange, transfer of credit between any banking institution within the United States and any banking institution outside of the United States (including any principal, agent, home office, branch, or correspondent outside of the United States of a banking institution within the United States), and the export or withdrawal from the United States of any currency or silver coin which is legal tender in the United States, by any person within the United States, is hereby prohibited, except under license therefore

issued pursuant to this part: *Provided, however*, That, except as prohibited under regulations prescribed by the Secretary of the Treasury, foreign exchange transactions and transfers of credit may be carried out without a license for (a) normal commercial or business requirements, (b) reasonable traveling and other personal requirements, or (c) the fulfillment of legally enforceable obligations incurred prior to March 9, 1933.

§ 127.2 Possessions of the United States.

Except as prohibited in regulations prescribed by the Secretary of the Treasury, transfers of credit between banking institutions in the institutions in other places subject to the jurisdiction of the United States (including principals, agents, home offices, branches, or correspondents in such other places, of banking institutions within the continental United States), may be carried out without a license.

§ 127.3 Licenses.

The Secretary of the Treasury, acting directly or through any agencies that he may designate, and the Federal Reserve banks acting in accordance with such rules and regulations as the Secretary of the Treasury may from time to time prescribe, are hereby designated as agencies for the granting of licenses as hereinafter provided. Licenses may be granted authorizing such transactions in foreign exchange, transfers of credit and exports of currency (other than gold certificates) or silver coin in such specific cases or classes of cases as the Secretary of the Treasury may determine in regulations prescribed hereunder and rulings made pursuant thereto.

§ 127.4 Reports.

The Federal Reserve banks shall keep themselves currently informed as to foreign exchange transactions entered into or consummated, and transfers of credit made between banking institutions outside of the continental United States and banking institutions, in their districts, and report to the Secretary of the Treasury all transactions in foreign exchange and all such transfers of credit not permitted under § 127.1 or § 127.2 which are effected or attempted in their districts without a license.

§ 127.5 Regulations.

The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of this part, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by the Federal Reserve banks and by such other agencies as the Secretary of the Treasury may designate; and the Secretary of the Treasury may require any person engaged in any transaction, transfer, export, or withdrawal referred to in this part to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person either before or after such transaction, transfer, export, or withdrawal is completed.

§ 127.6 Penalties.

Whoever, willfully violates or knowingly participates in the violation or knowingly participates in the violation of any provision of this part or of any license, order, rule, or regulation issued or prescribed

hereunder, shall be subject to the penalties provided in section 5(b) of act of October 6, 1917 (40 Stat. 415), as amended by section 2 of the act of March 9, 1933. (48 Stat. 1; 12 U.S.C. 95a).

§ 127.7 Definitions.

As used in this part the term "United States" means the United States and any place subject to the jurisdiction thereof; the term "continental United States" means the States of the United States, and the District of Columbia; the term "person" means an individual, partnership, association, or corporation; and the term "banking institution" includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing and selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent; and, for the purposes of this part, each home office, branch, principal, agent, or correspondent of any person so engaged shall be regarded as a separate "banking institution."

PROHIBITIONS

SOURCE: §§ 127.9 to 127.17 contained in E.O. 8389, 5 F.R. 1400, Apr. 12, 1940, as amended by E.O. 8785, 6 F.R. 2897, June 17, 1941; E.O. 8832, 6 F.R. 3715, July 29, 1941; E.O. 8963, 6 F.R. 6348, Dec. 11, 1941; E.O. 8998, 6 F.R. 6785, Dec. 30, 1941; 3 CFR, Cum. Supp., unless otherwise noted.

CROSS REFERENCE: For Foreign Funds Control Regulations, see Part 520 of this title.

§ 127.9 Additional prohibitions.

All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise, if such transactions are by, or on behalf of, or pursuant to the direction of any foreign country designated in § 127.11, or any national thereof, or such transactions involve property in which any foreign country designated in § 127.11, or any national thereof, has at any time on or since the effective date of §§ 127.9-127.17 had any interest of any nature whatsoever, direct or indirect.

(a) All transfers credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside the United States, of a banking institution within the United States);

(b) All payments by or to any banking institution within the United States;

(c) All transactions in foreign exchange by any person within the United States;

(d) The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

(e) All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

(f) Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

§ 127.10 Transactions prohibited.

(a) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise:

(1) The acquisition, disposition or transfer of, or other dealing in, or with respect to, any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country designated in § 127.11 or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign country, or where the attendant circumstances disclose or indicate that such stamp or seal may, at any time, have been stamped, imprinted, affixed or attached thereto; and

(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States,

(b) The Secretary of the Treasury may investigate, regulate, or prohibit under such regulations, rulings, or instructions as he may prescribe, by means of licenses or otherwise, the sending, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States.

§ 127.11 Definitions of "foreign country" and "effective date."

The term "foreign country designated in § 127.11" means a foreign country included in the following schedule, and the term "effective date of §§ 127.9-127.17" means with respect to any such foreign country, or any national thereof, the date specified in the following schedule:

- (a) April 8, 1940: Norway and Denmark.
- (b) May 10, 1940: The Netherlands, Belgium and Luxembourg.
- (c) June 17, 1940: France (including Monaco).
- (d) July 10, 1940: Latvia, Estonia and Lithuania.
- (e) October 9, 1940: Rumania.
- (f) March 4, 1941: Bulgaria.
- (g) March 13, 1941: Hungary.
- (h) March 24, 1941: Yugoslavia.
- (i) April 28, 1941: Greece.
- (j) June 14, 1941: Albania, Andorra, Austria, Czechoslovakia, Danzig, Finland, Germany, Italy, Liechtenstein, Poland, Portugal, San Marino, Spain, Sweden, Switzerland, and Union of Soviet Socialist Republics.
- (k) June 14, 1941: China and Japan.
- (l) June 14, 1941: Thailand.
- (m) June 14, 1941: Hong Kong.

The "effective date of §§ 127.9-127.17" with respect to any foreign country not designated in this section shall be deemed to be June 14, 1941.

§ 127.12 Records and reports.

(a) The Secretary of the Treasury and/or the Attorney General may require, by means of regulations, rulings, instructions, or otherwise, any person to keep a full record of and to furnish under oath, in

the form of reports or otherwise, from time to time and at any time or times, complete information relative to, any transaction referred to in section 5 (b) of the act of October 6, 1917 (40 Stat. 415), as amended, or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect, including the production of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed; and the Secretary of the Treasury and/or the Attorney General may, through any agency, investigate any such transaction or act, or any violation of the provisions of §§ 127.9-127.17.

(b) Every person engaging in any of the transactions referred to in §§ 127.9 and 127.10 shall keep a full record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least one year after the date of such transaction.

§ 127.13 Additional definitions.

(a) As used in the first paragraph of § 127.9 "transactions [which] involve property in which any foreign country designated in § 127.11, or any national thereof, has * * * any interest of any nature whatsoever, direct or indirect," shall include, but not by way of limitation (1) any payment or transfer to any such foreign country or national thereof, (2) any export or withdrawal from the United States to such foreign country, and (3) any transfer of credit, or payment of an obligation, expressed in terms of the currency of such foreign country.

(b) The term "United States" means the United States and any place subject to the jurisdiction thereof, and the term "continental United States" means the States of the United States, and the District of Columbia: *Provided, however,* That for the purposes of §§ 127.9 to 127.17, inclusive, the term "United States" shall not be deemed to include any territory included within the term "foreign country" as defined in paragraph (d) of this section.

(c) The term "person" means an individual, partnership, association, corporation, or other organization.

(d) The term "foreign country" shall include, but not by way of limitation,

(1) The state and the government thereof on the effective date of §§ 127.9-127.17 as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof,

(2) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise de jure or de facto sovereignty over the area which on such effective date constituted such foreign country, and

(3) Any territory which on or since the effective date of §§ 127.9 to 127.17, inclusive, is controlled or occupied by the military, naval or police forces or other authority of such foreign country, and

(4) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act

directly or indirectly for the benefit or on behalf of any of the foregoing.

(e) The term "national" shall include,

(1) Any person who has been domiciled in, or a subject, citizen or resident of a foreign country at any time on or since the effective date of §§ 127.9-127.17,

(2) Any partnership, association, corporation or other organization, organized under the laws of, or which on or since the effective date of §§ 127.9-127.17 had or has had its principal place of business in such foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly such foreign country and/or one or more nationals thereof as defined in this section.

(3) Any person to the extent that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any national of such foreign country, and

(4) Any other person who there is reasonable cause to believe is a "national" as defined in this section.

In any case in which by virtue of the foregoing definition a person is a national of more than one foreign country, such person shall be deemed to be a national of each such foreign country. In any case in which the combined interests of two or more foreign countries designated in § 127.11 and/or nationals thereof are sufficient in the aggregate to constitute, within the meaning of the foregoing, control or 25 percent or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries. The Secretary of the Treasury shall have full power to determine that any person is or shall be deemed to be a "national" within the meaning of this definition, and the foreign country of which such person is or shall be deemed to be a national. Without limitation of the foregoing, the term "national" shall also include any other person who is determined by the Secretary of the Treasury to be, or to have been, since such effective date, acting or purporting to act directly or indirectly for the benefit or under the direction of a foreign country designated in § 127.11 or national thereof, as defined in this section.

(f) The term "banking institution" as used in §§ 127.9-127.17 shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution".

§ 127.14 Executive Order No. 8389 no longer deemed part of Executive Order 6560.

Executive Order No. 8389 of April 10, 1940, as amended, shall no longer be deemed to be an amendment to or a part of Executive Order No. 6560 of January 15, 1934 (§§ 127.1–127.9). Executive Order No. 6560 of January 15, 1934, and the regulations of November 12, 1934 (Part 128), are hereby modified in so far as they are inconsistent with the provisions of §§ 127.9–127.17, and except as so modified, continue in full force and effect. Nothing herein shall be deemed to revoke any license, ruling or instruction now in effect and issued pursuant to Executive Order No. 6560 of January 15, 1934, as amended, or pursuant to §§ 127.9–127.17: *Provided, however*, That all such licenses, rulings, or instructions shall be subject to the provisions hereof. Any amendment, modification or revocation by or pursuant to the provisions of §§ 127.9–127.17 of any orders, regulations, rulings, instructions or licenses shall not affect any act done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification or revocation, and all penalties, forfeitures and liabilities under any such orders, regulations, rulings, instructions or licenses shall continue and may be enforced as if such amendment, modification or revocation had not been made.

§ 127.15 Additional regulations.

Without limitations as to any other powers or authority of the Secretary of the Treasury or the Attorney General under any other provisions of §§ 127.9–127.17, the Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of §§ 127.9–127.17 and to provide therein or otherwise the conditions under which licenses may be granted by or through such officers or agencies as the Secretary of the Treasury may designate and the decision of the Secretary with respect to the granting, denial or other disposition of an application or license shall be final.

§ 127.16 Penalties.

Section 5(b) of the act of October 6, 1917, as amended, provides in part:

* * * Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

§ 127.17 Modification or revocation.

Sections 127.9–127.17 and any regulations, rulings, licenses or instructions issued thereunder may be amended, modified or revoked at any time.

D. Part 128—Transactions in Foreign Exchange, Transfers of Credit, and Export of Coin and Currency

SUBPART A—REGULATIONS

- Sec.
128.1 General license.
128.2 Reports.
128.3 Use of information reported.
128.4 Penalties.
128.5 Modification or revocation.

SUBPART B—DESCRIPTION OF FORMS PRESCRIBED UNDER THIS SUBJECT

- 128.10 Copies.
128.11 Foreign Exchange Form B-1: "Short-term" liabilities to "foreigners."
128.11a Foreign Exchange Form B-1a: "Short-term" dollar liabilities to "foreigners" in selected countries not listed separately on Form B-1.
128.12 Supplement to Foreign Exchange Form B-1: "Short-term" dollar liabilities to "foreigners" in countries not listed separately on Form B-1.
128.13 Foreign Exchange Form B-2: "Short-term" claims on "foreigners."
128.13a Foreign Exchange form B-2a: "Short-term" dollar claims on "foreigners" in selected countries not listed separately on Form B-2.
128.14 Foreign Exchange Form B-3: "Long-term" liabilities to, and claims on, "foreigners."
128.14a Foreign Exchange Form B-3a: "Long-term" dollar liabilities to, and dollar claims on, "foreigners" in selected countries not listed separately on Form B-3.
128.15 Foreign Exchange Form C-1/2: Liabilities to, and claims on, "foreigners."
128.16 Foreign Exchange Form C-3: "Short-Term" liquid claims on foreigners."
128.16a Foreign Exchange Form C-4: "Short-Term" liquid claims on "foreigners" in countries not listed separately on Form C-3.
128.17 Foreign Exchange Form S-1: Purchases and sales of "long-term" securities by "foreigners."
128.17a Foreign Exchange Form S-1a: Purchases and sales of "Long-term" domestic securities by "foreigners" in selected countries not listed separately on Form S-1.
128.18 Supplement to Foreign Exchange Form S-1: U.S. Government bonds and notes held for "foreigners."
128.19 Foreign Exchange Form S-2: Purchases and sales of "long-term" domestic debt securities by "foreign official institutions."
128.20 Foreign Exchange Form S-4: Foreign debit and credit balances.
128.21 Use of prescribed report forms for portions of data required to be reported thereon.
128.22 Special survey report forms.
128.23 Alternative methods of reporting.

SUBPART C—DESCRIPTION OF FORMS PRESCRIBED UNDER THIS SUBPART

- 128.30 Copies.
128.31 Foreign Currency Form FC-1: Weekly report of positions in specified foreign currencies of banks in the United States.
128.32 Foreign Currency Form FC-1a: Monthly report of assets, liabilities, and positions in specified foreign currencies of banks in the United States.
128.33 Foreign Currency Form FC-2: Weekly consolidated report of positions in specified currencies of foreign branches and subsidiaries of United States banks.

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- 128.34 Foreign Currency Form FC-2a: Monthly consolidated report of assets, liabilities, and positions in specified currencies of foreign branches and subsidiaries of United States banks.
- 128.35 Foreign Currency Form FC-3/3a: Monthly and/or quarterly report of assets, liabilities, and positions in specified foreign currencies of firms in the United States.
- 128.36 Foreign Currency Form FC-4: Quarterly consolidated report of assets, liabilities, and positions in specified currencies of foreign branches and subsidiaries of firms in the United States.
- 128.37 Special reports.

Appendix—Determinations made by National Advisory Council pursuant to section 2 (a) and (b) of E.O. 10033.

AUTHORITY: The provisions of this Part 128 issued under sec. 5, 40 Stat. 415, as amended, sec. 8.59 Stat. 515; 50 U.S.C. App. 5, 22 U.S.C. 286f, E.O. 6500, Jan. 15, 1934, E.O. 10033; 14 F.R. 561, 3 CFR, 1949-1953 Comp.

NOTE: For a document adopting certain forms prescribed by this provisions of Part 128 see 39 FR 37362, Oct. 21, 1974.

SUBPART A—REGULATIONS

§ 128.1 General license.

Licenses may be granted, and a general license is hereby granted, to all individuals, partnerships, associations, and corporations, authorizing any and all transactions in foreign exchange, transfers of credit, and exports of currency (other than gold certificates) and silver coin. The general license granted in this section authorizes transactions to be carried out which are permitted by Executive Order 6560 of January 15, 1934 (Part 127 of this chapter) under license therefor issued pursuant to such Executive order; but does not authorize any transaction to be carried out which, at the time is prohibited by any other order or by any law, rulings, or regulation.

[28 FR 4256, Apr. 30, 1963]

§ 128.2 Reports.

(a) In order to effectuate the purposes of the Emergency Banking Act of 1933 (12 USC 95a) and Executive Order 6560 of January 15, 1934 (Part 127 of this chapter), and in order that information requested by the International Monetary Fund under the articles of agreement of the Fund may be obtained in accordance with section 8(a) of the Bretton Woods Agreements Act (sec. 8(a) 59 Stat. 515; 22 U.S.C. 286f and Executive Order No. 10033, 14 FR 561; 3 CFR, 1949 Supp.), every person subject to the jurisdiction of the United States engaging (1) in any transaction in foreign exchange; (2) in any transfer of credit between any person within the United States and any person outside of the United States; or (3) in the export or withdrawal from the United States or any currency or silver coin which is legal tender in the United States, shall furnish information relative thereto to such extent and in such manner and at such intervals as is required by report forms and instructions prescribed in Subpart B of this part.

(b) In order to effectuate the purposes of the Emergency Banking Act (12 U.S.C. 95a) and Executive Order 6560 of January 15, 1934 (Part 127 of this chapter), and to provide additional data on the nature and source of flows of mobile capital, including transactions by large United States business enterprises and their foreign affiliates, as required by Title II of Public Law 93-110 (87 Stat. 352),

every United States person engaging (1) in any transaction in foreign exchange; (2) in any transfer of credit between any person within the United States and any person outside the United States; or (3) in the export or withdrawal from the United States of any currency or silver coin which is legal tender in the United States, shall furnish information relative thereto to such extent and in such manner and at such intervals as is required by report forms and instructions prescribed in Subpart C of this part. Information shall also be furnished by every United States person or persons with regard to any foreign person controlled by such United States person or persons as provided in Subpart C of this part.

(c) All persons required to report, other than bankers and banking institutions, shall furnish the reports required under Subparts B and C of this part to the Federal Reserve Bank of New York. Bankers and banking institutions shall furnish the required reports to the Federal Reserve Bank of the district in which such banker or banking institution has its principal place of business in the United States. In the event that any person required to report has no principal place of business within a Federal Reserve district, the information shall be furnished directly to the Office of the Assistant Secretary for International Affairs, Department of the Treasury, Washington, D.C. 20220 or to such agency as the Department of the Treasury may designate.

(Title II, Pub. L. 93-110, 87 Stat. 352 (31 U.S.C. 1141-1143)) [39 FR 36962, Oct. 16, 1974]

§ 128.3 Use of information reported.

The information reported on the forms required under Subparts B and C will not be disclosed publicly by the Department of the Treasury or by any other Federal agency having access to the information as provided herein. Data reported on these forms may be published or released in the aggregate in a manner which will not reveal the amounts reported by any individual reporting bank or nonbanking firm. The Department may furnish to other Federal agencies data reported on these forms to the extent permitted by the Federal Reports Act, 44 U.S.C. 3501, *et seq.*

[39 FR 36962, Oct. 16, 1974]

§ 128.4 Penalties.

(a) Whoever willfully fails to submit a report required under this part may be criminally prosecuted and upon conviction fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both. Any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(b) Whoever fails to submit a report required under Subpart C of this part may be assessed a civil penalty not exceeding \$10,000.

(Sec. 2, Emergency Banking Act of 1933, 48 Stat. 1 (12 U.S.C. 95a); sec. 203, Pub. L. 93-110, 87 Stat. 352 (31 U.S.C. 1143)) [39 FR 36962, Oct. 16, 1974]

§ 128.5 Modification or revocation.

The regulations in this part and the general license granted in this part may be modified or revoked at any time.

[28 FR 4256, Apr. 30, 1963. Redesignated at 36962, Oct. 16, 1974]

**SUBPART B—DESCRIPTION OF FORMS PRESCRIBED
UNDER THIS SUBPART ¹**

SOURCE : 28 FR 4256, Apr. 30, 1963, unless otherwise noted.

§ 128.10 Copies.

Copies of the forms described in this subpart with instructions may be obtained from any Federal Reserve bank or the Office of International Affairs, Treasury Department, Washington, D.C. 20220.

§ 128.11 Foreign Exchange Form B-1: "Short-term" liabilities to "foreigners."

On this form bankers and banking institutions in the United States are required to report monthly to a Federal Reserve bank "short-term" liabilities to "foreigners" or assets held on behalf of "foreigners" which represent claims on institutions or individuals in the United States, as of the last day of business of the month.

§ 128.11a Foreign Exchange Form B-1a: "Short-term" dollar liabilities to "foreigners" in selected countries not listed separately on Form B-1.

On this form bankers and banking institutions in the United States are required to provide monthly data on "short-term" dollar liabilities to "foreigners" in selected countries which are not listed separately on Form B-1.

[39 FR 31527, Aug. 29, 1974]

§ 128.12 Supplement to Foreign Exchange Form B-1: "Short-term" dollar liabilities to "foreigners" in countries not listed separately on Form B-1.

On this form bankers and banking institutions in the United States are required to report twice a year, as of April 30 and December 31, to a Federal Reserve bank "short-term" dollar liabilities to "foreigners" in countries not listed separately on Form B-1.

§ 128.13 Foreign Exchange Form B-2: "Short-term" claims on "foreigners."

On this form bankers and banking institutions in the United States are required to report monthly to a Federal Reserve bank "short-term" assets owned by the reporter or held for the account of domestic customers which represent claims on "foreigners," as of the last day of business of the month.

§ 128.13a. Foreign Exchange Form B-2a: "Short-term" dollar claims on "foreigners" in selected countries not listed separately on Form B-2.

On this form bankers and banking institutions in the United States are required to provide monthly data on "short-term" dollar claims on "foreigners" in selected countries which are not listed separately on Form B-2.

[39 FR 31527, Aug. 29, 1974]

§ 128.14 Foreign Exchange Form B-3: "Long-term" liabilities to, and claims on, "foreigners."

On this form bankers and banking institutions in the United States are required to report monthly to a Federal Reserve bank "long-term" liabilities to, and claims on, "foreigners" acquired or held, either in the United States or abroad, by reporting organizations for their own account or for the account of others, as of the last day of business of the month.

¹ The specific reporting requirements contained in this subpart have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

§ 128.14a Foreign Exchange Form B-3a: "Long-term" dollar liabilities to, and dollar claims on, "foreigners" in selected countries not listed separately on Form B-3.

On this form bankers and banking institutions in the United States are required to provide monthly data on "long-term" dollar liabilities to, and claims on, "foreigners" in selected countries which are not listed separately on Form B-3.

[39 FR 31527, Aug. 29, 1974]

§ 128.15 Foreign Exchange Form C-1/2: Liabilities to, and claims on, "foreigners."

On this form exporters, importers, industrial and commercial concerns and other nonbanking institutions in the United States are required to report quarterly, as of the last day of business of the quarter, to a Federal Reserve bank "short-term" and certain other liabilities to and claims on "foreigners" acquired or held, either in the United States or abroad, by reporting organizations for their own account or for the account of others.

§ 128.16 Foreign Exchange Form C-3: "Short-Term" liquid claims on "foreigners."

On this form exporters, importers, industrial and commercial concerns and other nonbanking institutions in the United States are required to report monthly to a Federal Reserve bank data on a portion of their claims on "foreigners," as of the last day of business of the month.

[28 F.R. 4256, Apr. 30, 1963, as amended at 34 F.R. 18549, Nov. 21, 1969]

§ 128.16a Foreign Exchange Form C-4: "Short-Term" liquid claims on "foreigners" in countries not listed separately on Form C-3.

On this form reporters on Form C-3 are required to report annually a breakdown by country of the amounts which they reported as of September 30 on Form C-3 on the "All other countries" line.

[34 F.R. 18549, Nov. 21, 1969]

§ 128.17 Foreign Exchange Form S-1: Purchases and sales of "long-term" securities by "foreigners."

On this form bankers and banking institutions, brokers and dealers in the United States are required to report monthly to a Federal Reserve bank transactions in "long-term" and certain other securities excluded in the United States for account of "foreigners" and transactions in "long-term" securities executed abroad for their own account and for the account of their domestic customers.

§ 123.17a Foreign Exchange Form S-1a: Purchases and sales of "long-term" domestic securities by "foreigners" in selected countries not listed separately on Form S-1.

On this form bankers and banking institutions, brokers and dealers in the United States are required to provide monthly data on transactions in "long-term" domestic securities by "foreigners" in selected countries which are not listed separately on Form S-1.

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

[39 FR 31527, Aug. 29, 1974]

§128.18 Supplement to Foreign Exchange Form S-1: U.S. Government bonds and notes held for "foreigners."

On this form bankers and banking institutions, brokers and dealers in the United States are required to report to a Federal Reserve bank, as requested by the Treasury Department, their holdings for the account of "foreigners" of United States Government bonds and notes.

§128.19 Foreign Exchange Form S-2: Purchases and sales of "long-term" domestic debt securities by "foreign official institutions."

On this form bankers and banking institutions, brokers and dealers in the United States are required to report monthly to a Federal Reserve bank purchases and sales of "long-term" domestic debt securities by "foreign official institutions."

[38 F.R. 1637, Jan. 17, 1973]

§128.20 Foreign Exchange Form S-4: Foreign debit and credit balances.

On this form brokers and dealers in the United States are required to report quarterly, as of the last day of business of the quarter, to a Federal Reserve bank, the debit and credit balances in their accounts carried by or for "foreigners".

[33 F.R. 4576, Mar. 16, 1968]

§128.21 Use of prescribed report forms for portions of data required to be reported thereon.

The report forms prescribed in Sections 128.11–128.20 are also prescribed for use, as needed, for the collection at intervals other than the ones stated of a portion of the data required on each form in the same or greater detail.

§128.22 Special survey report forms.

On report forms other than those described in §§ 128.11 to 128.20 reports are required from time to time to provide detailed information on the content of aggregate data reported on these forms and also to provide qualitative information necessary for adequate analysis of the data reported.

§128.23 Alternative methods of reporting.

In lieu of reports on the forms described in this subpart, the required data may be reported on punch cards, magnetic tape, or other media that can be processed by data processing equipment, accompanied by a printed copy of the data reported which must be signed by a responsible officer of the reporting institution. The proposed method and format of reporting must be acceptable to the Federal Reserve Bank of the district in which the report is filed, and must be approved in writing by that Bank.

[32 F.R. 14055, Oct. 10, 1967]

SUBPART C—DESCRIPTION OF FORMS PRESCRIBED UNDER THIS SUBPART

AUTHORITY: Title II, Pub. L. 93–110, 87 Stat. 352 (31 U.S.C. 1141–1143).

SOURCE: 39 FR 36963, Oct. 16, 1974, unless otherwise noted.

§128.30 Copies.

Copies of the forms described in this subpart with instructions may be obtained from a Federal Reserve Bank or from the Office of the Assistant Secretary for International Affairs, Department of the Treasury, Washington, D.C. 20220.

§ 128.31 Foreign Currency Form FC-1: Weekly report of positions in specified foreign currencies of banks in the United States.

On this form bankers and banking institutions in the United States are required to report weekly to a Federal Reserve Bank their positions in the foreign currencies specified on the form, as of the close of business on Wednesday.

§ 128.32 Foreign Currency Form FC-1a: Monthly report of assets, liabilities, and positions in specified foreign currencies of banks in the United States.

On this form bankers and banking institutions in the United States are required to report monthly to a Federal Reserve Bank their assets, liabilities, and positions in the foreign currencies specified on the form, as of the last day of business of the month.

§ 128.33 Foreign Currency Form FC-2: Weekly consolidated report of positions in specified currencies of foreign branches and subsidiaries of United States banks.

On this form United States bankers and banking institutions are required to report weekly to a Federal Reserve Bank the consolidated positions of their foreign branches and majority-owned foreign subsidiaries in the currencies specified on the form as of the close of business on Wednesday.

§ 128.34 Foreign Currency Form FC-2a: Monthly consolidated report of assets, liabilities, and positions in specified currencies of foreign branches and subsidiaries of United States banks.

On this report form United States bankers and banking institutions are required to report monthly to a Federal Reserve Bank the consolidated assets, liabilities, and positions of their foreign branches and majority-owned foreign subsidiaries in the currencies specified on the form as of the last day of business of the month.

§ 128.35 Foreign Currency Form FC-3/3a: Monthly and/or quarterly report of assets, liabilities, and positions in specified foreign currencies of firms in the United States.

On this form nonbanking business concerns and nonprofit institutions in the United States are required to report monthly and/or quarterly to the Federal Reserve Bank of New York their assets, liabilities, and positions in the foreign currencies specified on the form, as of the last day of business of the month and/or calendar quarter.

[40 FR 8020, Feb. 24, 1975]

§ 128.36 Foreign Currency Form FC-4: Quarterly consolidated report of assets, liabilities, and positions in specified currencies of foreign branches and subsidiaries of firms in the United States.

On this report form, nonbanking firms and nonprofit institutions in the United States are required to report quarterly to the Federal Reserve Bank of New York the consolidated assets, liabilities, and positions of their foreign branches and majority-owned foreign partnerships and subsidiaries in the currencies specified on the form as of the last day of business of the calendar quarter.

[40 FR 8020, Feb. 24, 1975]

§ 128.37 Special reports.

At times when prompt or expanded information on current conditions in the foreign exchange market is needed by the Department of the Treasury, special reports may be required at more frequent intervals or at different intervals than those specified on the forms, covering more detailed information than that required by the forms, and

covering information related to that required by the forms. Special reports may be required to be submitted by telegraph or other rapid means of communication.

APPENDIX—DETERMINATIONS MADE BY NATIONAL ADVISORY COUNCIL PURSUANT TO SECTION 2(a) AND (b) OF E.O. 10033

I. Determination of the National Advisory Council pursuant to E.O. 10033.

In an action dated September 7, 1965, the National Advisory Council on International Monetary and Financial Problems made the following determination pursuant to section 2(a) of E.O. 10033 of February 8, 1949.

Action 65 (E.O.)—49. The National Advisory Council, having consulted with the Director of the Bureau of the Budget, determines that current information with respect to international capital movements, derived from data on U.S. liabilities to and claims on foreigners and transactions in securities with foreigners, and current information with respect to U.S. gold holdings, foreign-currency holdings, and dollar liabilities to foreigners, are essential in order that the United States may comply with official requests of the International Monetary Fund for information with respect to the U.S. balance of payments and monetary reserves.

Action No. 320, March 17, 1949, is superseded by this determination and is hereby revoked.

II. Designation of the Treasury Department by the Director of the Bureau of the Budget pursuant to section 2(b) of E.O. 10033.

On December 1, 1965, the Treasury Department was designated, pursuant to section 2(b) of E.O. 10033 of February 8, 1949, to collect information for the International Monetary Fund under the National Advisory Council determination of September 7, 1965. The letter containing the designation reads as follows:

DECEMBER 1, 1965.

HON. HENRY H. FOWLER,
Secretary of the Treasury,
Washington, D.C. 20220

DEAR MR. SECRETARY: On September 7, 1965, the National Advisory Council, after consultation with this Bureau in accordance with section 2(a) of Executive Order 10033, made the following determination (Action 65 (E.O.)—49):

"The National Advisory Council, having consulted with the Director of the Bureau of the Budget, determines that current information with respect to international capital movements, derived from data on U.S. liabilities to and claims on foreigners and transactions in securities with foreigners, and current information with respect to U.S. gold holdings, foreign-currency holdings, and dollar liabilities to foreigners, are essential in order that the United States may comply with official requests of the International Monetary Fund for information with respect to the U.S. balance of payments and monetary reserves."

It is hereby determined, pursuant to section 2(b) of Executive Order 10033, that the Treasury Department shall collect information pertaining to capital movements between the United States and foreign countries and pertaining to the monetary reserves of the United States, except information pertaining to direct-investment transactions, U.S. Government foreign lending operations, and claims and liabilities of U.S. Government agencies (other than public debt obligations), which is collected by the Department of Commerce.

This letter supersedes the earlier determination as to the responsibilities of the Treasury Department in this area, dated April 21, 1949, as amended May 4, 1950.

Sincerely yours,

RAYMOND T. BOWMAN,
Assistant Director for Statistical Standards.

E. Part 500—Foreign Assets Control Regulations

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Sec.

- 500.101 Relation of this chapter to other laws and regulations including 8 CFR Ch. II.

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- 500.201 Transactions involving designated foreign countries or their nationals; effective date.
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Sec.

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- Sec.
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- 500.809 Rules governing availability of information.

AUTHORITY: Sec. 5, 40 Stat. 415, as amended, 50 U.S.C. App. 5, E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748.

SOURCE: The provisions of this Part 500 appear at 15 F.R. 9040, Dec. 19, 1950, unless otherwise noted.

SUBPART A—RELATION OF THIS CHAPTER TO OTHER LAWS AND REGULATIONS

§ 500.101 Relation of this chapter to other laws and regulations including 8 CFR Ch. II.

(a) This chapter is independent of 8 CFR Ch. II. The prohibitions contained in this chapter are in addition to the prohibitions contained in 8 CFR Ch. II. No license or authorization contained in or issued pursuant to 8 CFR Ch. II shall be deemed to authorize any transaction prohibited by this chapter, nor shall any license or authorization issued pursuant to any other provision of law (except this chapter) be deemed to authorize any transaction so prohibited.

(b) No license or authorization contained in or issued pursuant to this chapter shall be deemed to authorize any transaction to the extent that it is prohibited by reason of the provisions of any law or statute other than Section 5(b) of the Trading with the Enemy Act, as amended, or any proclamation, order or regulation other than those contained in or issued pursuant to this chapter or pursuant to section 620(a) of the Foreign Assistance Act of 1961.

[15 F.R. 9040, Dec. 19, 1950, as amended at 27 F.R. 1116, Feb. 7, 1962]

SUBPART B—PROHIBITIONS

§ 500.201 Transactions involving designated foreign countries or their nationals; effective date.

(a) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, if either such transactions are by, or on behalf of, or pursuant to the direction of any designated foreign country, or any national thereof, or such transactions involve property in which any designated foreign country, or any national thereof, has at any time on or since the effective date of this section had any interest of any nature whatsoever, direct or indirect:

(1) All transfers of credit and all payments between, by, through, or to any banking institution or banking institutions wheresoever located, with respect to any property subject to the jurisdiction of the United States or by any person (including a banking institution) subject to the jurisdiction of the United States;

(2) All transactions in foreign exchange by any person within the United States; and

(3) The exportation or withdrawal from the United States of gold or silver coin or bullion, currency or securities, or the earmarking of any such property, by any person within the United States.

(b) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, if such transactions involve property in which any designated foreign country, or any national thereof, has at any time on or since the effective date of this section had any interest of any nature whatsoever, direct or indirect:

(1) All dealings in, including, without limitation, transfers, withdrawals, or exportations of, any property or evidences of indebtedness or evidences of ownership of property by any person subject to the jurisdiction of the United States; and

(2) All transfers outside the United States with regard to any property or property interest subject to the jurisdiction of the United States.

(c) Any transaction for the purpose or which has the effect of evading or avoiding any of the prohibitions set forth in paragraph (a) or (b) of this section is hereby prohibited.

(d) The term "designated foreign country" means a foreign country in the following schedule and the term "effective date" and the term "effective date of this section" mean with respect to any designated foreign country, or any national thereof, 12:01 a.m. eastern standard time of the date specified in the following schedule, except as specifically noted after the country or area:

SCHEDULE

COUNTRY AND EFFECTIVE DATE

1. China : December 17, 1950.
2. North Korea, i.e., Korea north of the 38th parallel of north latitude: December 17, 1950.
3. Cambodia : April 17, 1975.

4. North Viet-Nam, i.e., Viet-Nam north of the 17th parallel of north latitude: May 5, 1964.

5. South Viet-Nam, i.e., Viet-Nam south of the 17th parallel of north latitude: April 30, 1975 at 12:00 p.m. e.d.t.

With respect to any country and for any other purpose for which an "effective date" is not otherwise provided the "effective date" shall be December 17, 1950. [15 FR 9040, Dec. 19, 1950, as amended at 18 FR 2079, Apr. 14, 1953; 40 FR 19202, May 2, 1975]

§ 500.202 Transactions with respect to securities registered or inscribed in the name of a designated national.

Unless authorized by a license expressly referring to this section, the acquisition, transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, or otherwise dealing in any security (or evidence thereof) registered or inscribed in the name of any designated national is prohibited irrespective of the fact that at any time (either prior to, on or subsequent to the "effective date") the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of any such security.

§ 500.203 Effect of transfers violating the provisions of this chapter.

(a) Any transfer after the "effective date" which is in violation of any provision of this chapter or of any regulation, ruling, instruction, license, or other direction or authorization thereunder and involves any property in which a designated national has or has had an interest since such "effective date" is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before the "effective date" shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property in which a designated national has or has had an interest since the "effective date" unless the person with whom such property is held or maintained had written notice of the transfer or by any written evidence had recognized such transfer prior to such "effective date."

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Secretary of the Treasury before, during or after a transfer shall validate such transfer or render it enforceable to the same extent as it would be valid or enforceable but for the provisions of section 5(b) of the Trading With the Enemy Act, as amended, and this chapter and any ruling, order, regulation, direction or instruction issued thereunder.

(d) Transfers of property which otherwise would be null and void, or unenforceable, by virtue of the provisions of this section shall not be deemed to be null and void, or enforceable pursuant to such provisions, as to any person with whom such property was held or maintained (and as to such person, only) in cases in which such person is able to establish each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this chapter by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the

facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to the provisions of this chapter and was not so licensed or authorized or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this chapter or any regulation, ruling, instruction, license or other direction or authorization thereunder, or

(ii) Such transfer was not licensed or authorized by the Secretary of the Treasury, or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained;

the person with whom such property was held or maintained filed with the Treasury Department, Washington, D.C. 20220, a report in triplicate setting forth in full the circumstances relating to such transfer. The filing of a report in accordance with the provisions of this paragraph shall not be deemed to be compliance or evidence of compliance with paragraph (d) (1) and (2) of this section.

(e) Unless licensed or authorized by § 500.504 or otherwise licensed or authorized pursuant to this chapter any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the "effective date" there existed the interest of a designated foreign country or national thereof.

(f) For the purpose of this section the term "property" includes gold, silver, bullion, currency, coin, credit, securities (as that term is defined in section 2 (1) of the Securities Act of 1933, as amended), bills of exchange, notes, drafts, acceptances, checks, letters of credit, book credits, debts, claims, contracts, negotiable documents of title, mortgages, liens, annuities, insurance policies, options and futures in commodities, and evidences of any of the foregoing. The term "property" shall not, except to the extent indicated, be deemed to include chattels or real property.

§ 500.204 Importation of and dealings in certain merchandise.

(a) Except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, or rulings, instructions, licenses, or otherwise, persons subject to the jurisdiction of the United States may not purchase, transport, import, or otherwise deal in or engage in any transaction with respect to any merchandise outside the United States specified in following paragraph (a) (1) of this section.

(1) Merchandise the country of origin of which is China (except Formosa), North Korea, North Viet-Nam, South Viet-Nam or Cambodia. Articles which are the growth, produce or manufacture of these areas shall be deemed for the purposes of this chapter to be merchandise whose country of origin is China (except Formosa) North Korea, North Viet-Nam, South Viet-Nam or Cambodia, notwithstanding that they may have been subjected to one or any combination of the fol-

lowing processes in another country: (i) Grading; (ii) testing; (iii) checking; (iv) shredding; (v) slicing; (vi) peeling or splitting (vii) scraping; (viii) cleaning; (ix) washing; (x) soaking; (xi) drying; (xii) cooling, chilling or refrigerating; (xiii) roasting; (xiv) steaming; (xv) cooking; (xvi) curing; (xvii) combining of fur skins into plates; (xviii) blending; (xix) flavoring; (xx) preserving; (xxi) pickling; (xxii) smoking; (xxiii) dressing; (xxiv) salting; (xxv) dyeing; (xxvi) bleaching; (xxvii) tanning; (xxviii) packing (xxix) canning; (xxx) labeling; (xxxi) carding; (xxxii) combing; (xxxiii) pressing; (xxxiv) any process similar to any of the foregoing. Any article wheresoever manufactured shall be deemed for the purposes of this chapter to be merchandise whose country of origin is China (except Formosa) North Korea, North Viet-Nam, South Viet-Nam or Cambodia if there shall have been added to such articles any embroidery, needlepoint, petit point, lace or any other articles of adornment which is the product of China (except Formosa) North Korea, North Viet-Nam, South Viet-Nam or Cambodia, notwithstanding that such addition to the merchandise may have occurred in a country other than China (except Formosa) North Korea, North Viet-Nam, South Viet-Nam or Cambodia.

(2) Merchandise specified in this subparagraph, howsoever processed, unless such merchandise originated in a country named as excepted for that type of merchandise and is imported into the United States directly from that country:

<i>Type of merchandise</i>	<i>Excepted countries</i>
(i) All merchandise, not elsewhere specified in this paragraph, if prior to December 17, 1950, imports thereof into the United States were chiefly of Chinese origin within the meaning of this chapter, and,	None.
(ii) All of the following specified types of merchandise:	
Aniseed, star-----	None.
Aniseed, oil-----	None.
Antiques, Chinese type (except Chinese porcelain which qualified under items 766.20-25 of Title I—Tariff Schedules of the United States, Tariff Act of 1930, as amended, and which is decorated with the armorial bearing, crests, monograms, cyphers, or badges of European or American families or societies or bearing motifs based thereon, or with European or American political, memorial, or Masonic scenes or devices, or with European or American figures, ships, or other scenes, or with motifs or inscriptions in English, Latin, or any other European language).	None.
Bamboo, split-----	None.
Braids, straw-----	Italy, Japan.
Bristles, hog (except nondyed European hog bristles).	None.
Brushes, paint and hair pencil, and parts thereof, containing hog bristles more than 1½ inches in total length or more than 1¼ inches in length out of the ferrules.	None.
Carpet wool, Tibetan and Nepalese types-----	None.
Cashmere-----	Iran.
Cassia-----	Indonesia.
Cassia oil-----	None.

<i>Type of merchandise</i>	<i>Excepted countries</i>
Chinese type:	
Art objects.....	None.
Beverages	None.
Drugs	None.
Foodstuffs	None.
Garments	None.
Herbs	None.
Ivory articles.....	None.
Jade articles	None.
Medicines, prepared.....	None.
Rugs	None.
Tea	Formosa.
Cinnamic aldehyde	None.
Cinnamon oil	Ceylon, Seychelles.
Cornmint oil.....	Argentina, Brazil.
Eggs, poultry:	
Whole in the shell, preserved.....	None.
Dried (whole, albumen, or yolks).....	None.
Embroideries and embroidered articles of types chiefly imported from China prior to December 17, 1950.	None.
Feathers and down, Asiatic, except peacock feathers.	Burma, India, Formosa, Thailand, and those areas of Viet-Nam which are not under Communist control.
Firecrackers	None.
Floor coverings, grass, straw and seagrass.....	Japan.
Fur skins:	
Goat and kid.....	Argentina, Ethiopia, Iran, Iraq.
Kolinsky	Republic of Korea.
Weasel	Canada.
Gallnuts, except Aleppo gallnuts.....	None.
Ginger root, candied or otherwise prepared or preserved.	None.
Hair, human, Asiatic.....	None.
Hats, unfinished:	
Manila hemp (abaca).....	None.
Palm leaf.....	Mexico, Philippines.
	Brazil, Dominican Republic, Italy, Japan, Philippines.
	None.
Jade stones, cut but not set, suitable for use in jewelry.	Brazil.
Menthol, natural and synthetic (except racemic)...	None.
Musk	None.
Rutin	Japan.
Seagrass mats and squares.....	None.
Silk, tussah, muga, eri.....	None.
Silk, piece goods, tussah, muga, eri.....	None.
Sophera Japonica.....	None.
Tannic acid, from gallnuts other than Aleppo gallnuts.	
Tung oil.....	Argentina, Brazil, Paraguay.
Walnuts, except black or pickled walnuts.....	France, Iran, Italy, Turkey.
Yak hair.....	None.

(3) Merchandise specified in this subparagraph, howsoever processed, if such merchandise is or has been located in or transported from

or through Hong Kong, Macao, or any country not in the authorized trade territory.

TYPE OF MERCHANDISE

Agar-agar.
 Bamboo: Bags, baskets and other manufactures, except furniture; Poles and sticks.
 Brocades and brocade articles.
 Camphor, natural and synthetic.
 Camphor oil, natural and synthetic.
 Cane webbing.
 Carpet wool.
 Carpets.
 Castor beans.
 Castor oil.
 Chinaware.
 Citronella oil.
 Cotton manufactures.
 Cotton waste.
 Earthenware.
 Embroideries and embroidered articles.
 Hair, animal.
 Hair nets of any material.
 Handkerchiefs.
 Hardwood manufactures, except bentwood furniture.
 Hats, paper.
 Hides, buffalo.
 Ivory manufactures.
 Lace and lace articles.
 Linen manufactures, except wearing apparel not containing any lace, embroidery or brocade.
 Ores and metals: Antimony, Bismuth, Mercury, Molybdenum, Tin, Tungsten.
 Peanut Oil.
 Peanuts.
 Ramie.
 Rugs.
 Seagrass manufactures.
 Sesame oil.
 Sesame seed.
 Shoes, leather soled with nonleather uppers, except ladies' high-heel shoes.
 Silk: Manufactures except Western style suits and Indian saris; Raw; and waste.
 Skins, deer and goat.
 Stones, semiprecious.
 Stones, semiprecious, manufactures.
 Straw manufactures.
 Tapestries.
 Tapioca.
 Tapioca flour.

(4) Merchandise specified in this subparagraph, howsoever processed, if such merchandise is or has been located in or transported from or through Hong Kong or Macao.

TYPE OF MERCHANDISE

Feather manufactures.
 Glass, sheet (window).
 Graphite.
 Honey.
 Marine products, edible.
 Pigeons, frozen or otherwise prepared or preserved.
 Poultry, frozen or otherwise prepared or preserved.

[34 FR 20190, Dec. 24, 1969, as amended at 40 FR 7649, Feb. 21, 1975; 40 FR 19202, May 2, 1975]

SUBPART C—GENERAL DEFINITIONS

§ 500.301 Foreign country.

The term "foreign country" also includes, but not by way of limitation:

(a) The state and the government of any such territory on or after the "effective date" as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof.

(b) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise control, authority, jurisdiction or sovereignty over territory which on the "effective date" constituted such foreign country.

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the "effective date", acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing, and

(d) Any territory which on or since the "effective date" is controlled or occupied by the military, naval or police forces or other authority of such foreign country.

§ 500.302 National.

(a) The term "national" shall include:

(1) A subject or citizen of, or any person who has been within, a foreign country, whether domiciled or resident therein or otherwise, at any time on or since the "effective date".

(2) Any partnership, association, corporation, or other organization, organized under the laws of, or which on or since the "effective date" had or has had its principal place of business in a foreign country, or which on or since such effective date was or has been controlled by, or substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, a foreign country and/or one or more nationals thereof as defined in this section.

(3) Any person to the extent that such person is, or has been, since the "effective date" acting or purporting to act directly or indirectly for the benefit or on behalf of any national of a foreign country.

(4) Any other person who there is reasonable cause to believe is a "national as defined in this section.

(b) The Secretary of the Treasury retains full power to determine that any person is or shall be deemed to be a "national" within the meaning of this section, and to specify the foreign country of which such person is or shall be deemed to be a national.

[17 F.R. 5343, June 12, 1952]

§ 500.303 Nationals of more than one foreign country.

(a) Any person who by virtue of any provision in this chapter is a national of more than one foreign country shall be deemed to be a national of each of such foreign countries.

(b) In any case in which a person is a national of two or more designated foreign countries, a license or authorization with respect to nationals of one of such designated foreign countries shall not be

deemed to apply to such person unless a license or authorization of equal or greater scope is outstanding with respect to nationals of each other designated foreign country of which such person is a national.

(c) In any case in which the combined interests of two or more designated foreign countries and/or nationals thereof are sufficient in the aggregate to constitute control or ownership of 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries.

§ 500.304 [Reserved.]

§ 500.305 Designated national.

The term "designated national" shall mean any country designated in § 500.201 and any national thereof including any person who is a specially designated national.

§ 500.306 Specially designated national.

(a) The term "specially designated national" shall mean:

(1) Any person who is determined by the Secretary of the Treasury to be a specially designated national;

(2) Any person who on or since the "effective date" has acted for or on behalf of the Government or authorities exercising control over any designated foreign country, or

(3) Any partnership, association, corporation or other organization which on or since the "effective date" has been owned or controlled directly or indirectly by the Government or authorities exercising control over any designated foreign country or by any specially designated national.

(b) The following organizations or associations of persons have been determined to be "specially designated nationals" of North Viet-Nam:

The so-called "National Liberation Front of South Viet-Nam."

The Viet Cong.

The so-called "National Liberation Front of South Viet-Nam Red Cross" also called "The Liberation Red Cross".

[15 F.R. 9040, Dec. 19, 1950, as amended at 31 F.R. 8586, June 21, 1966]

§ 500.307 Unblocked national.

Any person licensed as an "unblocked national" shall, while so licensed, be regarded as a person within the United States who is not a national of any designated foreign country: *Provided, however,* That the licensing of any person as an "unblocked national" shall not be deemed to suspend in any way the requirements of any section of this chapter relating to reports, and the production of books, documents, records, etc.

§ 500.308 Person.

The term "person" means an individual, partnership, association, corporation, or other organization.

§ 500.309 Transactions.

The phrase "transactions which involve property in which any designated foreign country, or any national thereof, has any interest

of any nature whatsoever, direct or indirect," includes, but not by way of limitation (a) any payment or transfer to any such designated foreign country or national thereof, (b) any export or withdrawal from the United States to such designated foreign country, and (c) any transfer of credit, or payment of an obligation, expressed in terms of the currency of such designated foreign country.

§ 500.310 Transfer.

The term "transfer" shall mean any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and without limitation upon the foregoing shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit or statement; the appointment of any agent trustee, or other fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power.

§ 500.311 Property; property interests.

Except as defined in § 500.203(f) for the purposes of that section the terms "property" and "property interest" or "property interests" shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, any debts, indebtedness obligations, notes, debentures, stocks, bonds, coupons, any other financial securities, bankers' acceptances, mortgages, pledges, liens or other right in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks, copyrights, contracts or licenses affecting or involving patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 500.312 Interest.

The term "interest" when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

§ 500.313 Property subject to the jurisdiction of the United States.

(a) The phrase "property subject to the jurisdiction of the United States" includes, without limitation, securities, whether registered or bearer, issued by:

(1) The United States or any State, district, territory, possession, county, municipality, or any other subdivision or agency or instrumentality of any thereof; or

(2) Any person within the United States whether the certificate which evidences such property or interest is physically located within or outside the United States.

(b) The phrase "property subject to the jurisdiction of the United States" also includes, without limitation, securities, whether registered or bearer, by whomsoever issued, if the certificate evidencing such property or interest is physically located within the United States.

§ 500.314 Banking institution.

The term "banking institution" shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or any broker; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution."

§ 500.315 [Reserved]

§ 500.316 License.

Except as otherwise specified, the term "license" shall mean any license or authorization contained in or issued pursuant to this chapter.

[28 F.R. 6973, July 9, 1963]

§ 500.317 General license.

A general license is any license or authorization the terms of which are set forth in this chapter.

§ 500.318 Specific license.

A specific license is any license or authorization issued pursuant to this chapter but not set forth in this chapter.

§ 500.319 Blocked account.

The term "blocked account" shall mean an account in which any designated national has an interest, with respect to which account payments, transfers or withdrawals of other dealings may not be made or effected except pursuant to an authorization or license authorizing such action. The term "blocked account" shall not be deemed to include accounts of unblocked nationals.

§ 500.320 Domestic bank.

The term "domestic bank" shall mean any branch or office within the United States of any of the following which is not a national of any designated foreign country: any bank or trust company incorporated under the banking laws of the United States or of any State, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States, or of any state, territory or district of the United States. The Secretary of the Treasury may also authorize any other banking institution to be treated as a "domestic bank" for the purpose of this definition or for the purpose of any or all sections of this chapter.

§ 500.321 United States; continental United States.

The term "United States" means the United States and all areas under the jurisdiction or authority thereof including the Panama Canal Zone and the Trust Territory of the Pacific Islands. The term "continental United States" means the states of the United States and the District of Columbia.

[24 FR 1984, Mar. 18, 1959]

§ 500.322 Authorized trade territory; member of the authorized trade territory.

(a) The term "authorized trade territory" shall include:

(1) North, South and Central America, including the Caribbean region, except Cuba;

(2) Africa;

(3) Oceania, including Indonesia and the Philippines;

(4) Andorra, Austria, Belgium, Denmark, Ireland, the Federal Republic of Germany and the Western Sector of Berlin, France (including Monaco), Greece, Iceland, Italy, Liechtenstein, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and Yugoslavia;

(5) Afghanistan, Bhutan, Burma, Ceylon, Hong Kong, India, Iran, Iraq, Israel, Japan, Jordan, Kuwait, Laos, Lebanon, Luxembourg, the Netherlands, Norway, Macao, Malaysia, Muscat and Oman, Nepal, Pakistan, Saudi Arabia, Singapore, South Korea, Syrian Arab Republic, Taiwan, Thailand and Yemen;

(6) Any colony, territory, possession, or protectorate of any country included within this paragraph; but the term shall not include the United States.

(b) The term "member of the authorized trade territory" shall mean any of the foreign countries or political subdivisions comprising the authorized trade territory.

[40 FR 19202, May 2, 1975]

§ 500.323 Occupied area.

The term "occupied area" shall mean any territory occupied by a designated foreign country which was not occupied by such country prior to June 25, 1950.

§ 500.324 [Reserved]

§ 500.325 National securities exchange.

The term "national securities exchange" shall mean an exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (48 Stat. 885, 15 U.S.C. 78f).

§ 500.326 Custody of safe deposit boxes.

Safe deposit boxes shall be deemed to be in the "custody" not only of all persons having access thereto but also of the lessors of such boxes whether or not such lessors have access to such boxes. The foregoing shall not in any way be regarded as a limitation upon the meaning of the term "custody".

§ 500.327 Blocked estate of a decedent.

The term "blocked estate of a decedent" shall mean any decedent's estate in which a designated national has an interest. A person shall be deemed to have an interest in a decedent's estate if he (a) was the decedent; (b) is a personal representative; or (c) is a creditor, heir, legatee, devisee, distributee, or beneficiary.

§ 500.328 Status of the recognized Governments of China, Korea, and Viet-Nam and of the diplomatic and consular representatives of China, Korea and Viet-Nam.

(a) Those portions of China, Korea and Viet-Nam which are under the control of the Governments of China, Korea and Viet-Nam which are recognized by the United States are not included within the term designated foreign country.

(b) The diplomatic and consular representatives of China, Korea and Viet-Nam which are recognized by the United States are not deemed to be acting or purporting to act directly or indirectly for the benefit or on behalf of any designated foreign country.

[29 F.R. 6011, May 7, 1964]

§ 500.329 Person subject to the jurisdiction of the United States.

(a) The term, "person subject to the jurisdiction of the United States," includes:

(1) Any person, wheresoever located, who is a citizen or resident of the United States;

(2) Any person actually within the United States;

(3) Any corporation organized under the laws of the United States or of any State, territory, possession, or district of the United States; and

(4) Any partnership, association, corporation, or other organization, wheresoever, organized or doing business, which is owned, or controlled by persons specified in subparagraph (1), (2), or (3) of this paragraph.

[20 F.R. 1379, Mar. 8, 1955]

§ 500.330 Person within the United States.

(a) The term, "person within the United States," includes:

(1) Any person, wheresoever located, who is a resident of the United States;

(2) Any person actually within the United States;

(3) Any corporation organized under the laws of the United States or of any state, territory, possession, or district of the United States; and

(4) Any partnership, association, corporation, or other organization, wheresoever organized or doing business, which is owned or controlled by any person or persons specified in subparagraph (1), (2), or (3) of this paragraph.

[20 F.R. 1379, Mar. 8, 1955]

§ 500.331 Merchandise.

The term "merchandise" means all goods, wares and chattels of every description without limitation of any kind.

[24 F.R. 1984, Mar. 18, 1959]

SUBPART D—INTERPRETATIONS

§ 500.401 Reference to amended sections.

Reference to any section of this chapter or to any regulation, ruling, order, instruction, direction or license issued pursuant to this chapter shall be deemed to refer to the same as currently amended unless otherwise so specified.

§ 500.402 Effect of amendment of sections of this chapter or of other orders, etc.

Any amendment, modification, or revocation of any section of this chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Secretary of the Treasury pursuant to section 3(a) or 5(b) of the Trading With the Enemy Act, as amended, shall not unless otherwise specifically provided be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation, and all penalties, forfeitures, and liabilities under any such section, order, regulation, ruling, instruction or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 500.403 Termination and acquisition of the interest of a designated national.

(a) Except as provided in § 500.525, whenever a transaction licensed or authorized by or pursuant to this chapter results in the transfer of property (including any property interest) away from a designated national, such property shall no longer be deemed to be property in which a designated national has or has had an interest unless there exists in such property an interest of a designated national, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization contained in or issued pursuant to this chapter, if property (including any property interest) is transferred to a designated national such property shall be deemed to be property in which there exists the interest of a designated national.

§ 500.404 Transactions between principal and agent.

A transaction between any person within the United States and any principal, agent, home office, branch, or correspondent, outside the United States of such person is a transaction prohibited by § 500.201 to the same extent as if the parties to the transaction were in no way affiliated or associated with each other.

§ 500.405 Exportation of securities, etc., to designated foreign countries.

Section 500.201 prohibits the exportation of securities, currency, checks, drafts and promissory notes to designated foreign countries.

§ 500.406 Drafts under irrevocable letters of credit; documentary drafts.

Section 500.201 prohibits the presentation, acceptance or payment of:

(a) Drafts or other orders for payment drawn under irrevocable letters of credit issued in favor or on behalf of any designated national;

(b) Drafts or other orders for payment, in which any designated national has on or since the "effective date" had any interest, drawn under any irrevocable letter or credit; and

(c) Documentary drafts in which any designated national has on or since the "effective date" had any interest.

§ 500.407 Administration of blocked estates of decedents.

Section 500.201 prohibits all transactions incident to the administration of the blocked estate of a decedent, including the appointment and qualification of personal representatives, the collection and liqui-

dation of assets, the payment of claims, and distribution to beneficiaries. Attention is directed to § 500.523 which authorizes certain transactions in connection with the administration of blocked estates of decedents.

§ 500.408 Access to certain safe deposit boxes prohibited.

Section 500.201 prohibits access to any safe deposit box within the United States in the custody of any designated national or containing any property in which any designated national has any interest or which there is reasonable cause to believe contains property in which any such designated national has any interest. Attention is directed to § 500.517 which authorizes access to such safe deposit boxes under certain conditions.

§ 500.409 Certain payments to designated foreign countries and nationals through third countries.

Section 500.201 prohibits any request or authorization made by or on behalf of a bank or other person within the United States to a bank or other person outside of the United States as a result of which request or authorization such latter bank or person makes a payment or transfer of credit either directly or indirectly to a designated national

[18 F.R. 2080, Apr. 14, 1953]

§ 500.410 Currency, coins, and postage and other stamps.

Currency, coins, and postage and other stamps issued by North Korea or North Viet-Nam are merchandise of North Korean or North Viet-Nameese origin subject to § 500.204(a) (1).

[40 FR 7649, Feb. 21, 1975]

§ 500.411 Dealings abroad in commodities subject to the Regulations.

Section 500.204 prohibits the unlicensed importation into the United States of commodities of North Korean or North Viet-Nameese origin. It also prohibits, unless licensed, persons subject to the jurisdiction of the United States from purchasing, transporting or otherwise dealing in such commodities which are outside the United States.

[40 FR 7649, Feb. 21, 1975]

§ 500.412 Process v. manufacture.

A commodity subject to § 500.24 remains subject howsoever it has been processed. It should not be assumed that a commodity which has undergone operations other than those listed in § 500.204(a) (1), has become a manufactured form of the commodity rather than a processed form thereof. In case of question, a ruling should be requested from the Office of Foreign Assets Control. Requests for rulings in the form of license applications or otherwise should include adequate technical detail. It should be noted that it is quite possible for merchandise to have North Korea or North Viet-Nam as its "country of origin" for Foreign Assets Control purposes while having some other country as its "country of origin" for marking or statistical purposes.

[40 FR 7649, Feb. 21, 1975]

§ 500.413 Property excluded from paragraph (b) of § 500.541.

The term "any property subject to the jurisdiction of the U.S." as used in § 500.541(b) of the Foreign Assets Control Regulations does not include tangible property located in a foreign country.

Securities (registered or bearer) located abroad, issued by a person entitled to the privileges of § 500.541 are also not included within that term.

[40 FR 7649, Feb. 21, 1975]

§ 500.414 Foreign branches of a U.S. Firm.

Section 500.541 is applicable to foreign branches of a United States firm.

[40 FR 7649, Feb. 21, 1975]

**SUBPART E—LICENSES, AUTHORIZATION AND STATEMENTS
OF LICENSING POLICY**

§ 500.501 [Reserved]

§ 500.502 Effect of subsequent license or authorization.

No license or other authorization contained in this chapter or otherwise issued by or under the direction of the Secretary of the Treasury pursuant to section 3(a) or 5(b) of the Trading With the Enemy Act, as amended, shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such license or other authorization specifically so provides.

§ 500.503 Exclusion from licenses and authorizations.

The Secretary of the Treasury reserves the right to exclude from the operation of any license or from the privilege therein conferred or to restrict the applicability thereof with respect to particular persons, transactions or property or classes thereof. Such action shall be binding upon all persons receiving actual notice or constructive notice thereof.

§ 500.504 Certain judicial proceedings with respect to property of designated nationals.

(a) Subject to the limitations of paragraphs (b), (c) and (d) of this section judicial proceedings are authorized with respect to property in which on or since the "effective date" there has existed the interest of a designated national.

(b) A judicial proceeding is authorized by this section only if it is based upon a cause of action which accrued prior to the "effective date."

(c) This section does not authorize or license:

(1) The entry of any judgment or of any decree or order of similar or analogous effect upon any judgment book, minute book, journal or otherwise, or the docketing of any judgment in any docket book, or the filing of any judgment roll or the taking of any other similar or analogous action.

(2) Any payment or delivery out of a blocked account based upon a judicial proceeding nor does it authorize the enforcement or carrying out of any judgment or decree or order of similar or analogous effect with regard to any property in which a designated national has an interest.

(d) If a judicial proceeding relates to property in which there exists the interest of any designated national other than a person who would not have been a designated national except for his relationship to an occupied area, such proceeding is authorized only if it is based upon a claim in which no person other than any of the following has had an interest since the "effective date":

- (1) A citizen of the United States;
- (2) A corporation organized under the laws of the United States or any State, territory or possession thereof, or the District of Columbia;
- (3) A natural person who is and has been since the "effective date" a resident of the United States and who has not been a specially designated national;
- (4) A legal representative (whether or not appointed by a court of the United States) or successor in interest by inheritance, devise, bequest, or operation of law, who falls within any of the categories specified in subparagraphs (1), (2) and (3) of this paragraph but only to the same extent that their principals or predecessors would be qualified by such paragraph.

§ 500.505 Certain persons in the United States unblocked.

The following are hereby licensed as unblocked nationals:

- (a) Any individual in the United States except an individual who on or after the "effective date" was in, or who, on or since such date, has acted or purported to act directly or indirectly for the benefit of or on behalf of any designated foreign country.
- (b) Any individual in the United States who has been paroled into the United States pursuant to section 212(d) (5) of the Immigration and Nationality Act by the Attorney General: *Provided*, That this subsection shall not apply:
 - (1) To any individual who after such parole has acted or purported to act directly or indirectly for the benefit of or on behalf of any designated foreign country; or,
 - (2) To any individual whose parole has been revoked, after the date of such revocation.
- (c) Any partnership, association, corporation or other organization which is a national of a designated foreign country solely by reason of the interest of persons licensed by this section.

[27 F.R. 6233, June 30, 1962]

§ 500.506 Certain persons in authorized trade territory unblocked.

- (a) Except as provided in paragraph (b) of this section the following are hereby licensed as unblocked nationals:
 - (1) Any individual in the authorized trade territory except an individual who on or after the "effective date," was in, or who on or since such date, has acted or purported to act directly or indirectly for the benefit of, or on behalf of any designated foreign country,
 - (2) Any partnership, association, corporation, or other organization which is a national of a designated foreign country solely by reason of the interest of persons licensed by this section.
- (b) This section does not license as an unblocked national any person who is a specially designated national.

§ 500.507 Individuals who are citizens of, and residing only in the United States, unblocked.

- (a) Any individual who is a citizen of the United States, residing only in the United States, and who is a national of a designated foreign country solely by reason of having been formerly domiciled or resident therein is hereby licensed as an unblocked national.
- (b) This section does not license as an unblocked national any individual citizen of the United States who is a national of a desig-

nated foreign country by reason of any fact other than his former domicile or residence in such country.

§ 500.508 Payments to blocked accounts in domestic banks.

(a) Any payment or transfer of credit to a blocked account in a domestic bank in the name of any designated national is hereby authorized providing such payment or transfer shall not be made from any blocked account if such payment of transfer represents, directly or indirectly, a transfer of the interest of a designated national to any other country or person.

(b) This section does not authorize:

(1) Any payment or transfer to any blocked account held in a name other than that of the designated national who is the ultimate beneficiary of such payment or transfer; or

(2) Any foreign exchange transaction including, but not by way of limitation, any transfer of credit, or payment of an obligation, expressed in terms of the currency of any foreign country.

(c) This section does not authorize any payment or transfer of credit comprising an integral part of a transaction which cannot be effected without the subsequent issuance of a further license.

(d) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a sub-account thereof, or the income derived from such securities, to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities are held.

(e) This section does not authorize any payment or transfer from a blocked account in a domestic bank to a blocked account in another domestic bank held under any name or designation which differs from the name or designation of the specific blocked account or sub-account from which the payment or transfer is made.

(f) The authorization in paragraph (a) is subject to the condition that a notification from the domestic bank receiving an authorized payment or transfer is furnished by the transferor to the Office of Foreign Assets Control confirming that the payment or transfer has been deposited in a blocked account under the regulations in this Part and providing the name and address of the designated national in whose name the account is held.

[40 FR 7649, Feb. 21, 1975]

§ 500.509 Entries in certain accounts for normal service charges.

(a) Any banking institution within the United States is hereby authorized to:

(1) Debit any blocked account with such banking institution (or with another office within the United States of such banking institution) in payment or reimbursement for normal service charges owed to such banking institution by the owner of such blocked account.

(2) Make book entries against any foreign currency account maintained by it with a banking institution in any designated foreign country for the purpose of responding to debits to such account for normal service charges in connection therewith.

(b) As used in this section, the term "normal service charge" shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small

adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, account carrying charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, check books, and other similar items.

§ 500.510 Payments to the United States, States and political subdivisions.

(a) The payment from any blocked account to the United States or any agency or instrumentality thereof or to any State, territory, district, county, municipality or other political subdivision in the United States, of customs duties, taxes, and fees payable thereto by the owner of such blocked account is hereby authorized.

(b) This section also authorizes transactions incident to the payment of customs duties, taxes, and fees from blocked accounts, such as the levying of assessment, the creation and enforcement of liens, and the sale of blocked property in satisfaction of liens for customs duties, taxes, and fees.

§ 500.511 Transactions by certain business enterprises.

(a) Except as provided in paragraphs (b), (c) and (d) of this section any partnership, association, corporation or other organization which on the "effective date" was actually engaged in a commercial, banking or financial business within the United States and which is a national of any designated foreign country, is hereby authorized to engage in all transactions ordinarily incidental to the normal conduct of its business activities within the United States.

(b) This section does not authorize any transaction which would require a license if such organization were not a national of any designated foreign country.

(c) This section does not authorize any transaction by a specially designated national.

(d) Any organization engaging in business pursuant to this section shall not engage in any transaction, pursuant to this section or any other license or authorization contained in this chapter, which, directly or indirectly, substantially diminishes or imperils the assets of such organization or otherwise prejudicially affects the financial position of such organization.

(e) No dealings with regard to any account shall be evidence that any person having an interest therein is actually engaged in commercial, banking or financial business within the United States.

§ 500.512 [Reserved.]

§ 500.513 Purchase and sale of certain securities.

(a) The bona fide purchase and sale of securities on a national securities exchange by banking institutions within the United States for the account, and pursuant to the authorization, of nationals of any designated foreign country and the making and receipt of payments, transfers of credit, and transfers of such securities which are necessary incidents of any such purchase or sale are hereby authorized provided the following terms and conditions are complied with:

(1) In the case of the purchase of securities, the securities purchased shall be held in an account in a banking institution within the United States in the name of the national whose account was debited to purchase such securities; and

(2) In the case of the sale of securities, the proceeds of the sale shall be credited to an account in the name of the national for whose account the sale was made and in the banking institution within the United States which held the securities of such national.

(b) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a subaccount thereof, to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(c) Securities issued or guaranteed by the Government of the United States or any State, territory, district, county, municipality, or other political subdivision thereof (including agencies and instrumentalities of the foregoing) need not be purchased or sold on a national securities exchange, but purchases or sales of such securities shall be made at market value and pursuant to all other terms and conditions prescribed in this section.

§ 500.514 Payment of dividends and interest on and redemption and collection of securities.

(a) The payment to, and receipt by, a banking institution within the United States of funds or other property representing dividends or interest on securities held by such banking institution in a blocked account is hereby authorized provided the funds or other property are credited to or deposited in a blocked account in such banking institution in the name of the national for whose account the securities were held. Notwithstanding § 500.202, this paragraph authorizes the foregoing transactions although such securities are registered or inscribed in the name of any designated national and although the national in whose name the securities are registered or inscribed may not be the owner of such blocked account.

(b) The payment to, and receipt by, a banking institution within the United States of funds payable in respect of securities (including coupons) presented by such banking institution to the proper paying agents within the United States for redemption or collection for the account and pursuant to the authorization of nationals of any designated country is hereby authorized provided the proceeds of the redemption or collection are credited to a blocked account in such banking institution in the name of the national for whose account the redemption or collection was made.

(c) The performance of such other acts, and the effecting of such other transactions, as may be necessarily incident to any of the foregoing, are also hereby authorized.

(d) This section does not authorize the crediting of the proceeds of the redemption or collection of securities (including coupons) held in a blocked account or a subaccount thereof, or the income derived from such securities to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(e) This section does not authorize any issuer or other obligor, with respect to a security, who is a designated national, to make any payment, transfer or withdrawal.

§ 500.515 Transfers of securities to blocked accounts in domestic banks.

(a) Transactions ordinarily incident to the transfer of securities from a blocked account in the name of any person to a blocked account

in the same name in a domestic bank are hereby authorized provided such securities shall not be transferred from any blocked account if such transfer represents, directly or indirectly, a transfer of the interest of a designated national to any other country or person.

(b) This section does not authorize the transfer of securities held in a blocked account or subaccount thereof to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

[32 F.R. 10846, July 25, 1967]

§ 500.516 Voting and soliciting of proxies on securities.

Notwithstanding § 500.202, the voting and the soliciting of proxies or other authorizations is authorized with respect to the voting of securities issued by a corporation organized under the laws of the United States or of any State, territory, or district thereof, in which a designated national has any interest.

§ 500.517 Access to safe deposit boxes under certain conditions.

(a) Access to any safe deposit box leased to a designated national or containing property in which any designated national has an interest, and the deposit therein or removal therefrom of any property is hereby authorized, provided the following terms and conditions are complied with:

(1) Access shall be permitted only in the presence of an authorized representative of the lessor of such box; and

(2) In the event that any property in which an designated national has any interest is to be removed from such box, access shall be permitted only in the presence of an authorized representative of a banking institution within the United States, which may be the lessor of such box, which shall receive such property into its custody immediately upon removal from such box and which shall hold the same in a blocked account under an appropriate designation indicating the interest therein of designated nationals.

(b) The terms and conditions set forth in paragraph (a) of this section shall not apply to access granted to a representative of the office of Alien Property pursuant to any rule, regulation or order of such Office.

(c) The lessee or other person granted access to any safe deposit box pursuant to this section (except an agent or representative of the Office of Alien Property) shall furnish to the lessor a certificate in triplicate that he has filed or will promptly file a report with respect to such box, if leased to a designated national, and with respect to all property contained in the box to which access is had in which any designated national has an interest. The lessor shall transmit two copies of such certificate to the Treasury Department, Washington, D.C. The certificate is required only on the first access to the box. In case a report on Form TFR-603 was not made, a report is hereby required to be filed. All reports made pursuant to this section shall bear on their face or have securely attached to them a statement reading, "this report is filed pursuant to 31 CFR 500.517".

[15 F.R. 9040, Dec. 19, 1950, as amended at 35 F.R. 4045, Mar. 4, 1970]

§ 500.518 Payments for living, traveling, and similar personal expenses in the United States.

(a) Payments and transfers of credit in the United States from blocked accounts in domestic banking institutions held in the name of an individual within the United States to or upon the order of such individual are hereby authorized provided the following terms and conditions are complied with:

(1) Such payments and transfers of credit may be made only for the living, traveling, and similar personal expenses in the United States of such individual or his family; and

(2) The total of all such payments and transfers of credit made under this section from the accounts of such individual may not exceed \$250 in any one calendar month.

(b) This section does not authorize any payment or transfer from an account in which a specially designated national has an interest.

[28 F.R. 6973, July 9, 1963]

§ 500.519 Limited payments from accounts of United States citizens abroad.

(a) Payments and transfers of credit from blocked accounts for expenditures within the United States or the authorized trade territory of any citizen of the United States who is within any foreign country are hereby authorized provided the following terms and conditions are complied with:

(1) Such payments and transfers shall be made only from blocked accounts in the name of, or in which the beneficial interest is held by, such citizen or his family; and

(2) The total of all such payments and transfers made under this section shall not exceed \$1,000 in any one calendar month for any such citizen or his family.

(b) This section does not authorize any remittance to any designated foreign country or, any payment, transfer, or withdrawal which could not be effected without a license by a person within the United States who is not a national of any designated foreign country.

§ 500.520 Payments from accounts of United States citizens in employ of United States in foreign countries and certain other persons.

(a) Banking institutions within the United States are hereby authorized to make all payments, transfers and withdrawals from accounts in the name of citizens of the United States while such citizens are within any foreign country in the course of their employment by the Government of the United States.

(b) Banking institutions within the United States are also hereby authorized to make all payments, transfers and withdrawals from accounts in the name of members of the armed forces of the United States and of citizens of the United States accompanying such armed forces in the course of their employment by any organization acting on behalf of the Government of the United States while such persons are within any foreign country.

(c) This section is deemed to apply to the accounts of members of the armed forces of the United States and of citizens of the United States accompanying such armed forces in the course of their employment by the Government of the United States or by any organization acting on its behalf even though they are captured or reported missing.

§ 500.521 Certain remittances for necessary living expenses.

(a) Remittances by any person to any individual who is a resident of a foreign country and is within that foreign country are hereby authorized on the following terms and conditions:

(1) Such remittances are made only for the necessary living expenses of the payee and his household and do not exceed \$100 in any one calendar month to any one household;

(2) Such remittances are not made from a blocked account other than from an account in a banking institution within the United States in the name of, or in which the beneficial interest is held by, the payee or members of his household;

(3) Such remittances are not made from a blocked account which is blocked pursuant to Executive order No. 8389, as amended;

(4) If the payee is within any designated foreign country, such remittances must be made through a domestic bank and any domestic bank is authorized to effect such remittances which, however, may be effected only by the payment of the dollar amount of the remittance to a domestic bank for credit to a blocked account in the name of a banking institution within such country.

(b) This section does not authorize any remittance to, or for the benefit of, a specially designated national who is not within a designated foreign country.

(c) This section does not authorize any remittance to an individual for the purpose of defraying the expenses of a person not constituting part of his household.

(d) As used in this section, the term "household" shall mean:

(1) Those individuals sharing a common dwelling as a family; or

(2) Any individual not sharing a common dwelling with others as a family.

[28 F.R. 6974, July 9, 1963]

§ 500.522 Certain remittances to United States citizens in foreign countries.

(a) Remittances by any person through any domestic bank to any individual who is a citizen of the United States within any foreign country are hereby authorized and any domestic bank is authorized to effect such remittances, on the following terms and conditions:

(1) Such remittances do not exceed \$1,000 in any one calendar month to any payee and his household and are made only for the necessary living and traveling expenses of the payee and his household, except that an additional sum not exceeding \$1,000 may be remitted once to such payee if such sum will be used for the purpose of enabling the payee or his household to return to the United States;

(2) Such remittances are not made from a blocked account other than from an account in a banking institution within the United States in the name of, or in which the beneficial interest is held by, the payee or members of his household;

(3) If the payee is within any designated foreign country, such remittances must be made through a domestic bank and must be effected by the payment of the dollar amount of remittance to a domestic bank for credit to a blocked account in the name of a banking institution within such country.

(b) This section does not authorize any remittance to an individual for the purpose of defraying the expenses of a person not constituting part of his household.

(c) As used in this section, the term "household" shall mean:

- (1) Those individuals sharing a common dwelling as a family; or
- (2) Any individual not sharing a common dwelling with others as a family.

§ 500.523 Transactions incident to the administration of decedents' estate.

(a) The following transactions are authorized in connection with the administration of the assets in the United States of any blocked estate of a decedent:

- (1) The appointment and qualification of a personal representative;
- (2) The collection and preservation of such assets by such personal representative and the payment of all costs, fees and charges in connection therewith; and
- (3) The payment by such personal representative of funeral expenses and expenses of the last illness.

(b) In addition to the authorization contained in paragraph (a) of this section, all other transactions incident to the administration of assets situated in the United States of any blocked estate of a decedent are authorized if:

(1) The decedent was not a national of a designated foreign country at the time of his death:

(2) The decedent was a citizen of the United States and a national of a designated foreign country at the time of his death solely by reason of his presence in a designated foreign country as a result of his employment by, or service with the United States Government; or

(3) The gross value of the assets within the United States does not exceed \$5,000.

(c) Any property or interest therein distributed pursuant to this section to a designated national shall be regarded for the purpose of this chapter as property in which such national has an interest and shall accordingly be subject to all the pertinent sections of this chapter. Any payment or distribution of any funds, securities or other choses in action to a designated national shall be made by a deposit in a blocked account in a domestic bank or with a public officer, agency, or instrumentality designated by a court having jurisdiction of the estate. Any such deposit shall be made in one of the following ways:

(1) In the name of the national who is the ultimate beneficiary thereof.

(2) In the name of a person who is not a national of a designated foreign country in trust for the national who is the ultimate beneficiary; or

(3) Under some other designation which clearly shows the interest therein of such national.

(d) Any distribution of property authorized pursuant to this section may be made to a trustee of any testamentary trust or to the guardian of an estate of a minor or of an incompetent.

(e) This section does not authorize:

(1) Any designated national to act as personal representative or co-representative of any estate;

(2) Any designated national to represent, directly or indirectly, any person who has an interest in an estate;

(3) Any designated national to take distribution of any property as the trustee of any testamentary trust or as the guardian of an estate of a minor or of an incompetent: or

(4) Any transaction which could not be effected if no designated national had any interest in such estate.

(f) Any payment or distribution authorized by this section may be deposited in a blocked account in a domestic bank or with a public officer, agency, or instrumentality designated by the court having jurisdiction of the estate in one of the ways prescribed in paragraph (c) (1), (2) or (3) of this section, but this section does not authorize any other transaction directly or indirectly at the request, or upon the instructions of any designated national.

§ 500.524 Payment from, and transactions in the administration of certain trusts and estates.

(a) Any bank or trust company incorporated under the laws of the United States, or of any State, territory, or district of the United States, or any private bank subject to supervision and examination under the banking laws of any state of the United States, acting as trustee of any trust administered in the United States or as legal representative of any estate of an infant or incompetent administered in the United States, in which trust or estate one or more persons who are nationals of a designated foreign country have an interest, beneficial or otherwise, or are co-trustees or co-representatives, is hereby authorized to engage in the following transactions:

(1) Payments of distributive shares of principal or income to all persons legally entitled thereto upon the condition prescribed in paragraph (b) of this section.

(2) Other transactions arising in the administration of such trust or estate which might be engaged in if no national of a designated foreign country were a beneficiary, co-trustee or co-representative of such trust or estate upon the condition prescribed in paragraph (b) of this section.

(b) Any payment or distribution of any funds, securities or other choses in action to a national of a designated foreign country under this section shall be made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

(c) Any payment or distribution into a blocked account in a domestic bank in the name of any such national of a designated foreign country who is the ultimate beneficiary of and legally entitled to any such payment or distribution is authorized by this section, but this section does not authorize such trustee or legal representative to engage in any other transaction at the request, or upon the instructions, of any beneficiary, co-trustee or co-representative of such trust or estate or other person who is a national of any designated foreign country.

§ 500.525 Certain transfers by operation of law.

(a) The following transfers by operation of law are hereby authorized:

(1) Any transfer of any dower, curtesy, community property, or other interest of any nature whatsoever provided that such transfer

arises solely as a consequence of the existence or change of marital status;

(2) Any transfer to any person by intestate succession;

(3) Any transfer to any person as administrator, executor, or other fiduciary by reason of any testamentary disposition; and

(4) Any transfer to any person as administrator, executor, or fiduciary by reason of judicial appointment or approval in connection with any testamentary disposition or intestate succession.

(b) Except to the limited extent authorized by § 500.523 or by any other license or authorization contained in or issued pursuant to this chapter no transfer to any person by intestate succession and no transfer to any person as administrator, executor, or other fiduciary by reason of any testamentary disposition, and no transfer to any person as administrator, executor, or fiduciary by reason of judicial appointment or approval in connection with any testamentary disposition or intestate succession shall be deemed to terminate the interest of the decedent in the property transferred if the decedent was a designated national.

(c) This section does not authorize any dealings in property by any person.

[25 F.R. 1910, Mar. 4, 1960]

§ 500.526 Transactions involving blocked life insurance policies.

(a) The following transactions are hereby authorized:

(1) The payment of premiums and interest on the policy loans with respect to any blocked life insurance policy;

(2) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest is that of one or more of the following:

(i) A member of the armed forces of the United States or a person accompanying such forces (including personnel of the American Red Cross, and similar organizations);

(ii) An officer or employee of the United States; or

(iii) A citizen of the United States resident in a designated foreign country; and

(3) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest (other than that of a person specified in paragraph (a) (2) of this section) is that of a beneficiary.

(b) Paragraph (a) of this section does not authorize:

(1) Any payment to the insurer from any blocked account except a blocked account of the insured or beneficiary, or

(2) Any payment by the insurer to a national of a designated foreign country unless payment is made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

(c) The application, in accordance with the provisions of the policy or the established practice of the insurer, of the dividends, cash surrender value, or loan value, of any blocked life insurance policy is also hereby authorized for the purposes of:

(1) Paying premiums;

(2) Paying policy loans and interest thereon;

(3) Establishing paid-up insurance; or

(4) Accumulating such dividends or values to the credit of the policy on the books of the insurer.

(d) As used in this section:

(1) The term "blocked life insurance policy" shall mean any life insurance policy or annuity contract, or contract supplementary thereto, in which there is a blocked interest.

(2) Any interest of a national of a designated foreign country shall be deemed to be a "blocked interest."

(3) The term "servicing" shall mean the following transactions with respect to any blocked life insurance policy:

(i) The payment of premiums, the payment of loan interest, and the repayment of policy loans;

(ii) The effecting by a life insurance company or other insurer of loans to an insured;

(iii) The effecting on behalf of an insured of surrenders, conversions, modifications, and reinstatements; and

(iv) The exercise or election by an insured of non-forfeiture options, optional modes of settlement, optional disposition of dividends, and other policy options and privileges not involving payment by the insurer.

(4) The term "transfer" shall mean the change of beneficiary, or the assignment or pledge of the interest of an insured in any blocked life insurance policy subsequent to the issuance thereof.

(e) This section does not authorize any transaction with respect to any blocked life insurance policy issued by a life insurance company or other insurer which is a national of a designated foreign country or which is not doing business or effecting insurance in the United States.

§ 500.527 Certain transactions with respect to United States patents, trademarks, and copyrights.

(a) There are hereby authorized:

(1) The filing in the United States Patent Office of applications for letters patent and for trademarks registration;

(2) The making and filing in the United States Copyright Office of applications for registration or renewal of copyrights;

(3) The prosecution in the United States Patent Office of applications for letters patent and for trademarks registration;

(4) The receipt of letters patent or trademark registration certificates or copyright registration or renewal certificates granted pursuant to any such applications

in which any designated national has at any time on or since the "effective date" had any interest.

(b) This section further authorizes, subject to the terms and conditions prescribed in paragraphs (c) and (d) of this section, the execution and recording of any instrument recordable in the United States Patent Office or the United States Copyright Office which affects title to or grants any interest in, including licenses under, any United States letters patent, trademark registration, copyright or renewal thereof, or application therefor, in which a designated national, who is such a national solely by reason of his relationship to an occupied area, has at anytime on or since the "effective date" had any interest, or which constitutes or evidences a transaction made by, or on behalf of, or pursuant to the direction of or with such a designated national, or if any of the parties to such instrument is such a designated national.

(c) Any such instrument the recording or the execution and recording of which is authorized by paragraph (b) of this section shall be recorded in the United States Patent Office or in the United States Copyright Office within ninety days of the date of execution thereof or ninety days from the "effective date" whichever is the longer period, or within such further time as may be allowed by the Secretary of the Treasury. The person presenting such instrument for recording shall file therewith in the United States Patent Office or United States Copyright Office a statement that such instrument is being recorded in accordance with the provisions of this section.

(d) Any such instrument the recording or the execution and recording of which is authorized by paragraph (b) of this section may be set aside by the Secretary of the Treasury at any time within a period of three years from the date of recording except that the Secretary of the Treasury may in his discretion reduce such period of time with respect to any such instrument after the recording thereof, and further, the patents, trademarks, interests, applications, or rights thereunder so transferred may be vested by the Secretary of the Treasury.

(e) This section also authorizes the payment from blocked accounts or otherwise, of fees currently due to the United States Government in connection with any transactions authorized by this section.

(f) This section further authorizes the payment from blocked accounts or otherwise of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States in connection with the transactions referred to in paragraphs (a), (b), and (e) of this section, provided that such payments shall not exceed (1) \$100 for the preparation, filing, and prosecution of any letters patent; or (2) \$50 for the preparation, filing and prosecution of any application for a trademark registration; or (3) \$25 for the securing and registration of any copyright; or (4) \$35 for the preparation and filing of any amendment to a pending application for letters patent or for a trademark registration.

(g) This section also authorizes the payment of a nominal consideration not exceeding one dollar, to any party to an instrument executed or recorded hereunder with respect to the property affected by such instrument, as long as such instrument is subject to being set aside in accordance with paragraph (d) of this section.

§ 500.528 Certain transactions with respect to blocked foreign patents, trademarks, and copyrights authorized.

(a) The following transactions by any person who is not a designated national are hereby authorized:

(1) The filing and prosecution of any application for a blocked foreign patent, trademark or copyright, or for the renewal thereof;

(2) The receipt of any blocked foreign patent, trademark or copyright;

(3) The filing and prosecution of opposition or infringement proceedings with respect to any blocked foreign patent, trademark, or copyright, and the prosecution of a defense to any such proceedings;

(4) The payment of fees currently due to the government of any foreign country, either directly or through an attorney or representative, in connection with any of the transactions authorized by subparagraphs (1), (2) and (3) of this paragraph or for the maintenance of any blocked foreign patent, trademark or copyright; and

(5) The payment of reasonable and customary fees currently due to attorneys or representatives in any foreign country incurred in connection with any of the transactions authorized by subparagraph (1), (2), (3) or (4) of this paragraph.

(b) Payments effected pursuant to the terms of paragraph (a) (4) and (5) of this section may not be made from any blocked account. Such payments shall be made in the manner and under the conditions specified in § 500.522 (a) (3) if the payee is within any designated foreign country.

(c) As used in this section the term "blocked foreign patent, trademark, or copyright" shall mean any patent, petty patent, design patent, trademark or copyright issued by any foreign country, in which a designated foreign country or national thereof has an interest, including any patent, petty patent, design patent, trademark, or copyright issued by a designated foreign country.

§ 500.529 Powers of attorney.

(a) No power of attorney, whether granted before or after the "effective date" shall be invalid by reason of any of the provisions of this chapter with respect to any transaction licensed by or pursuant to the provisions of this chapter.

(b) This section does not authorize any transaction pursuant to a power of attorney if such transaction is prohibited by § 500.201 and is not otherwise licensed or authorized by or pursuant to this chapter.

(c) This section does not authorize the creation of any power of attorney in favor of any person outside of the United States or the exportation from the United States of any power of attorney.

§ 500.530 Exportation of powers of attorney or instructions relating to certain types of transactions.

(a) The exportation to any foreign country of powers of attorney or other instruments executed or issued by any person within the United States who is not a national of a designated foreign country, which are limited to authorizations or instructions to effect transactions, incident to the following, are hereby authorized upon the condition prescribed in paragraph (b) of this section:

(1) The representation of the interest of such person in a decedent's estate which is being administered in any designated foreign country and the collection of the distributive share of such person in such estate;

(2) The maintenance, preservation, supervision or management of any property located in any designated foreign country in which such person has an interest; and

(3) The conveyance, transfer, release, sale or other disposition of any property specified in subparagraph (1) of this paragraph or any real estate or tangible personal property if the value thereof does not exceed the sum of \$5,000 or its equivalent in foreign currency.

(b) No instrument which authorizes the conveyance, transfer, release, sale or other disposition of any property may be exported under this section unless it contains an express stipulation that such authority may not be exercised if the value of such property exceeds the sum of \$5,000 or the equivalent thereof in foreign currency.

(c) As used in this section, the term "tangible personal property" shall not include cash, bullion, deposits, credits, securities, patents, trademarks, or copyrights.

§ 500.531 Payment of certain checks and drafts.

(a) Any banking institution within the United States is hereby authorized to make payments from blocked accounts held for nationals of Viet-Nam south of the 17th parallel with such banking institution:

(1) Of checks and drafts drawn or issued prior to April 30, 1975 provided:

(i) The amount involved in any one payment, acceptance, or debit does not exceed \$500; or

(ii) The check or draft was within the United States in process of collection by a domestic bank on or prior to April 30, 1975.

(b) This section does not authorize any payment to a designated foreign country or any designated national thereof except payments into a blocked account in a domestic bank, unless such designated national is otherwise licensed to receive such payment.

(c) The authorization contained in this section shall expire at the close of business on May 30, 1975.

[40 FR 19202, May 2, 1975]

§ 500.532 Completion of certain securities transactions.

(a) Banking institutions within the United States are hereby authorized to complete, on or before May 4, 1975, purchases and sales made prior to April 30, 1975 of securities purchased or sold for the account of nationals of South Viet-Nam provided the following terms and conditions are complied with, respectively:

(1) The proceeds of such sale are credited to a blocked account in a banking institution in the name of the person for whose account the sale was made; and

(2) The securities so purchased are held in a blocked account in a banking institution in the name of the person for whose account the purchase was made.

(b) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a subaccount thereof, to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

[40 FR 19203, May 2, 1975]

§ 500.533 Transactions incident to exportations designated countries.

(a) All transactions ordinarily incident to the exportation of goods, wares and merchandise from the United States to any person within a designated foreign country are hereby authorized, provided the following terms and conditions are complied with:

(1) The exportation is licensed or otherwise authorized by the Department of Commerce under the provisions of the Export Control Act of 1949 (sec. 3, 63 Stat. 7; 50 U.S.C. App. Sup. 2023); and

(2) Banking institutions within the United States, prior to issuing, confirming or advising letters of credit, or accepting or paying drafts drawn, or reimbursing themselves for payments made, under letters of credit, or making any other payment or transfer of credit, in connection with any exportation pursuant to this section, or engaging in any other transaction herein authorized, shall satisfy themselves that: (i) Each such transaction is incident to a bona fide exportation and is customary in the normal course of business, and that the value of such exportation reasonably corresponds with the sums of money in-

volved in financing such transaction; and (ii) such exportation is made pursuant to all the terms and conditions of this section.

(b) This section does not authorize:

- (1) The financing of any transaction from any blocked account;
- (2) Any transaction involving, directly or indirectly, property in which any designated national, other than a person located in the country to which the exportation is consigned, has an interest, or has had an interest since the "effective date".

[15 F.R. 9040, Dec. 19, 1950, as amended at 18 F.R. 2080, Apr. 14, 1953; 22 F.R. 10121, Dec. 18, 1957]

§ 500.534 [Reserved]

§ 500.535 Exchange of certain securities.

(a) Subject to the limitations and conditions of paragraph (b) of this section and notwithstanding § 500.202 of this chapter, any banking institution within the United States is authorized to engage in the following transactions with respect to securities listed on a national securities exchange, including the withdrawal of such securities from blocked accounts:

- (1) Exchange of certificates necessitated by reason of changes in corporate name, par value or capitalization,
- (2) Exchanges of temporary for permanent certificates,
- (3) Exchanges or deposits under plans of reorganization,
- (4) Exchanges under refunding plans, or
- (5) Exchanges pursuant to conversion privileges accruing to securities held.

(b) This section does not authorize the following transactions:

- (1) Any exchange of securities unless the new securities and other proceeds, if any, received are deposited in the blocked account in which the original securities were held immediately prior to the exchange.
- (2) Any exchange of securities registered in the name of any designated national, unless the new securities received are registered in the same name in which the securities exchanged were registered prior to the exchange.

(3) Any exchange of securities issued by a person engaged in the business of offering, buying, selling, or otherwise dealing, or trading in securities, or evidences thereof, issued by another person.

(4) Any transaction with respect to any security by an issuer or other obligor who is a designated national.

[16 F.R. 767, Jan. 27, 1951]

§ 500.536 Certain transactions with respect to merchandise affected by § 500.204.

(a) With respect to merchandise the importation of which is prohibited by § 500.204, all Customs transactions are authorized except the following:

- (1) Entry for consumption (including any appraisement entry, any entry of goods imported in the mails, regardless of value, and any other informal entries);
- (2) Entry for immediate exportation;
- (3) Entry for transportation and exportation;
- (4) Withdrawal from warehouse;
- (5) Transfer or withdrawing from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone.

(b) Paragraph (a) of this section is intended solely to allow certain restricted disposition of merchandise which is imported without proper authorization. Paragraph (a) does not authorize the purchase or importation of any merchandise.

(c) The purchase outside the United States for importation into the United States of merchandise specified in § 500.204 (other than merchandise to which § 500.204(a) (1) is applicable) and the importation of such merchandise into the United States (including transactions listed in paragraph (a) of this section) are authorized if there is presented to the collector of customs in connection with such importation the original of an appropriate certificate of origin as defined in paragraph (d) of this section and provided that the merchandise was shipped to the United States directly, or on a through bill of lading, from the country issuing the appropriate certificate of origin.

(d) A certificate of origin is appropriate for the purposes of this section only if:

(1) It is a certificate of origin the availability of which for Foreign Assets Control purposes has been announced in the Federal Register by the Office of Foreign Assets Control; and

(2) It bears a statement by the issuing agency referring to the Foreign Assets Control Regulations and stating that the certificate has been issued under procedures agreed upon with the United States Government.

[18 FR 2080, Apr. 14, 1953, as amended at 19 FR 5483, Aug. 27, 1954; 20 FR 1379, Mar. 8, 1955; 40 FR 7649, Feb. 21, 1975]

§ 500.537 [Reserved]

§ 500.538 Transportation and insurance of merchandise.

(a) Except as provided in paragraphs (c) and (d) of this section, to the extent that transportation or insurance of merchandise is prohibited by §§ 500.201 or 500.204, such transportation by carriers or insurance is authorized.

(b) [Reserved]

(c) This section does not authorize the transportation or insurance of any merchandise directly or indirectly to or from North Korea or North Viet-Nam, nor does it authorize the transportation or insurance of any merchandise of North Korean or North Viet-Namese origin.

(d) This section does not authorize the transportation directly or indirectly to mainland China or insurance of: 1) Any merchandise of United States origin, except as authorized by § 500.533; 2) Any merchandise regardless of origin of a type included in the Commodity Control List of the United States Department of Commerce (15 CFR Part 399) and identified by the code letter "A" following the Export Control Commodity Number, or of a type the unauthorized exportation of which from the United States is prohibited by any of the several regulations referred to in 15 CFR 370.10.

[40 FR 7649, Feb. 21, 1975]

§ 500.539 Certain transactions with respect to hog bristles.

(a) Subject to the provisions of paragraph (c) of this section, the purchase outside the United States for importation into the United States of hog bristles, except hog bristles specified in paragraph (b)

of this section, and the importation of such merchandise into the United States for warehouse entry is authorized.

(b) This section does not authorize any transaction with respect to hog bristles which, in whole or part, consist of:

- (1) Dyed hog bristles, or
- (2) Asiatic hog bristles (except Indian and Nepalese hog bristles, other than soft black hog bristles).

(c) This section does not authorize the release from bonded warehouse of any hog bristles. Merchandise purchased or imported pursuant to this section will be authorized for release from Customs custody for consumption in the United States only after the Foreign Assets Control is satisfied by physical inspection of such merchandise and such other measures as may be appropriate that the merchandise does not consist, in whole or in part, of merchandise specified in paragraph (b) of this section.

[31 F.R. 14506, Nov. 11, 1966]

§ 500.540 [Reserved]

§ 500.541 Certain transactions by persons in foreign countries.

(a) Except as provided in paragraphs (b), (c), (e), and (f) of this section, all transaction incident to the conduct of business activities abroad engaged in by any individual ordinarily resident in a foreign country in the authorized trade territory, or by any partnership, association, corporation, or other organization which is organized and doing business under the laws of any foreign country in the authorized trade territory, are hereby authorized.

(b) This section does not authorize any transaction involving property subject to the jurisdiction of the United States as of May 6, 1971, in which there existed, or had existed at any time on or since the effective date, any direct or indirect interest of China or nationals thereof.

(c) This section does not authorize any transaction involving the purchase or sale or other transfer of:

(1) Merchandise or technical data of United States origin unless it is in compliance with § 500.533; and.

(2) Merchandise, regardless of origin of a type included in the Commodity Control List of the United States Department of Commerce (15 CFR Part 399) and identified by the code letter "A" following the Export Control Commodity Number, or of a type the unauthorized exportation of which from the United States is prohibited by regulations issued under section 414 of the Mutual Security Act of 1954 relating to arms, ammunition, and implements of war or under sections 53(a), 62, 82(c), 103 and 104 of the Atomic Energy Act, relating to atomic energy facilities or materials for use for non-military purposes.

(d) [Reserved]

(e) This section does not authorize the supply of petroleum products to any vessel bound to or from North Korea, North Viet-Nam, South Viet-Nam, Cuba or Cambodia.

(f) This section does not authorize any transaction involving North Korea, North Viet-Nam, South Viet-Nam, Cambodia or their nationals, or merchandise the country of origin of which is North Korea, North Viet-Nam, South Viet-Nam or Cambodia.

[40 FR 19203, May 2, 1975]

§§ 500.543-500.545 [Reserved]**§ 500.546 Current transactions with China and its nationals authorized.**

(a) Except as provided in paragraph (b) of this section, all transactions with China or its nationals are hereby licensed.

(b) This section does not authorize:

(1) Any transaction prohibited by § 500.201 involving property subject to the jurisdiction of the United States as of May 6, 1971 in which China or any national thereof, at any time on or since December 17, 1950 had any interest whatsoever nor any transaction involving any income from such property accruing on or after May 6, 1971.

(2) Any transaction prohibited by § 500.201 and excepted from section 500.541 by subparagraphs (c) and (e) thereof.

(3) Any transaction prohibited by section 500.204.

(4) Any transaction involving an interest of North Korea or North Viet Nam or nationals thereof.

[36 F.R. 8584, May 8, 1971]

§ 500.547 Transactions involving mainland Chinese merchandise authorized.

(a) Except as provided in paragraphs (b) and (c) of this section, all transactions prohibited by § 500.204 are licensed.

(b) This section does not authorize:

(1) Any transaction entered into prior to June 10, 1971; or,

(2) Any transaction involving merchandise, the country of origin of which is North Korea or North Viet-Nam.

(c) Customs transactions incident to the importation of merchandise being imported pursuant to this section are authorized notwithstanding the provisions of § 500.808.

[36 FR 11441, June 12, 1971]

§ 500.549 Proof of origin.

Specific licenses for importation of goods of North Korean or North Viet-Namese origin are generally not issued unless the applicant submits satisfactory documentary proof of the location of the goods outside North Korea or North Viet-Nam prior to the applicable effective dates and of the absence of any North Korean or North Viet-Namese interest in the goods at all times on or since that date. Since the type of documents which would constitute satisfactory proof varies depending upon the facts of the particular case, it is not possible to state in advance the type of documents required. However, it has been found that affidavits, statements, invoices, and other documents prepared by manufacturers, processors, sellers or shippers cannot be relied on and are therefore not by themselves accepted by the Office of Foreign Assets Control as satisfactory proof of origin. Independent corroborating documentary evidence, such as insurance documents, bills of lading, etc., may be accepted as satisfactory proof.

[40 FR 7650, Feb. 21, 1975]

§ 500.550 Publications, films, etc. from North Korea and North Viet-Nam.

(a) Specific licenses are issued for commercial importations of publications, films, posters, phonograph records, photographs, microfilms, microfiche and tapes originating in North Korea or North Viet-Nam, provided all payments due the suppliers are made into blocked accounts in the name of the seller and provided that reports of any such imports and deposits, as required by the Office of Foreign Assets Control, are made by the licensee.

(b) Specific licenses are also issued for such publications, films, etc. originating in North Korea and North Viet-Nam, without restriction as to method of payment or on an exchange basis, under programs approved by the Librarian of Congress or the National Science Foundation for universities, libraries, research and scientific institutions.

(c) Such publications, films, etc. are also licensed when the Office of Foreign Assets Control is satisfied that they are bona fide gifts to the importer and that there is not and has not been, since the applicable effective date, any direct or indirect financial or commercial benefit to designated countries or nationals thereof from the importations.

[40 FR 7650, Feb. 21, 1975]

§ 500.551 Reimports.

Specific licenses are issued for reimportation of merchandise subject to § 500.204 on proof of the export of the identical merchandise from the United States. Persons planning to export any such merchandise for exhibition, repair, or for any other purpose should first ascertain that reimportation will be authorized. Generally, reimportation is authorized only if Customs Form 4455 was completed at the time of export.

[40 FR 7650, Feb. 21, 1975]

§ 500.552 Research samples.

Specific licenses are issued for importation of commodities subject to § 500.204 for bona fide research purposes in sample quantities only.

[40 FR 7650, Feb. 21, 1975]

§ 500.553 Prior contractual commitments not a basis for licensing.

Specific licenses are not issued on the basis that an unlicensed firm commitment or payment has been made in connection with a transaction prohibited by § 500.204. Contractual commitments to engage in transactions subject to the prohibitions in § 500.204 should not be made, unless the contract specifies that the transaction is authorized by a general license or that it is subject to the issuance of a specific Foreign Assets Control license.

[40 FR 7650, Feb. 21, 1975]

§ 500.554 Gifts of North Korean or North Viet-Nameese origin.

(a) Except as stated in paragraph (b) of this section and in § 500.550, specific licenses are not issued for the importation of North Korean or North Viet-Nameese origin goods sent as gifts to persons in the United States or acquired abroad as gifts by persons entering the United States. However, licenses are issued, upon request, for the return of such goods to the donors in countries other than North Korea or North Viet-Nam.

(b) Specific licenses are issued for the importation directly from North Korea or North Viet-Nam (1) of goods which are claimed by the importer to have been sent as a bona fide gift and (2) of goods which are imported by a person entering the U.S., which are claimed to have been acquired in North Korea or North Viet-Nam as a bona fide gift, subject to the conditions that:

- (i) The goods are of small value, and
- (ii) There is no reason to believe that there is, or has been since the applicable effective date, any direct or indirect financial or com-

mercial benefit to North Korea or North Viet-Nam or nationals thereof from the importation.

[40 FR 7650, Feb. 21, 1975]

§ 500.555 Bank accounts and other property of persons who were in mainland China on or after December 17, 1950 and prior to May 7, 1971.

(a) *Persons who left mainland China after December 17, 1950.* Specific licenses are issued unblocking the accounts and other property of persons who left mainland China after December 17, 1950, provided that they submit evidence satisfactorily demonstrating that they have established residence in a foreign country in the authorized trade territory.

(b) *Non-Chinese Decedents who died in mainland China on or after December 17, 1950 and prior to May 7, 1971.* Specific licenses are issued authorizing the administration of the estates of non-Chinese decedents who died in mainland China on or after December 17, 1950 and prior to May 7, 1971, provided that any distribution to a blocked national of China is made by deposit in a blocked account in a domestic bank in the name of the blocked national.

[40 FR 7650, Feb. 21, 1975]

§ 500.556 Joint bank accounts.

Specific licenses are issued unblocking a portion of or all of a blocked joint bank account where a non-blocked applicant claims beneficial ownership, as follows:

(a) *Joint bank account, without survivorship provisions.* Specific licenses are issued unblocking only that amount with respect to which the applicant is able to prove beneficial ownership by documentary evidence independent of his assertions of interest.

(b) *Joint bank account, with survivorship provision.* Specific licenses are issued unblocking an amount equivalent to that portion of the total amount to which the applicant would be entitled if the total were divided evenly among the persons in whose names the account is held (e.g. 50 percent where there are two names; 33⅓ percent where there are three names). Such licenses are issued on the basis of application's assertions of beneficial ownership interest without the requirement of independent evidence.

[40 FR 7650, Feb. 21, 1975]

§ 500.557 Proceeds of insurance policies.

(a) Specific licenses are issued authorizing payment of a portion of the proceeds of a blocked life insurance policy issued on the life of a Chinese, North Korean, or North Viet-Namese national who died in one of those countries after the applicable effective date, and in the case of a Chinese national, prior to May 7, 1971, to non-blocked beneficiaries as follows:

(1) Payment may be licensed of a portion equal to the proportionate shares due the beneficiaries after deduction of an amount equal to the cash surrender value of the policy on the date of the insured's death, (i.e., the value of the blocked insured's interest), subject to the condition that the amount deducted is deposited in a blocked account in a domestic bank in the name of the estate of the insured.

(2) As an alternative procedure, at the option of the applicant, payment may be licensed of the total amount of the proceeds into a

blocked account in a domestic bank in the names of the beneficiaries, subject to the condition that the account is designated as blocked by reason of the interest of the deceased insured in the policy. Specific licenses may subsequently be issued authorizing payments from such blocked accounts to non-blocked beneficiaries provided that the balance remains equal to the cash surrender value of the policy on the date of the insured's death, plus any accrued interest.

(3) Where a non-blocked surviving spouse of the insured is a beneficiary, payments to such spouse are licensed pursuant to the procedures in paragraphs (a) (1) and (2) of this section.

(b) Where a blocked life insurance policy on the life of a Chinese, North Korean, or North Viet-Nameese national who died in any one of those countries after the applicable effective date, and in the case of the Chinese national prior to May 7, 1971, provides for payment to the estate of the insured, licenses are not issued for payment except to a blocked account in a domestic bank in the name of the estate of the deceased insured.

[40 FR 7651, Feb. 21, 1975]

§ 500.558 Accounts of blocked partnerships.

Specific licenses are issued unblocking partnerships established under the laws of China, North Korea, or North Viet-Nam as follows:

(a) Where all of the general partners and limited partners, if any, have emigrated from China, North Korea or North Viet-Nam and have established residence in the United States or in a country in the authorized trade territory, specific licenses are issued unblocking the assets of the partnership after deducting the total debt due creditors wherever located.

(b) Where one or more partners, whether general or limited, is in China, North Korea or North Viet-Nam (or elsewhere but still blocked), specific licenses are issued unblocking only the net pro-rata shares of those partners who are resident in the United States or in a country in the authorized trade territory after deducting the total debt due creditors wherever located.

(c) The issuance of licenses is conditioned on the applicant furnishing the following information:

(1) Detailed information as to the status of all debts and other obligations of the blocked partnership, specifying the citizenship and residence of each creditor as of the applicable effective date, and as of the date of the application;

(2) The current status of the blocked partnership e.g., liquidated, nationalized, inoperative etc.;

(3) A detailed description of all the partnership's assets, wherever located; and,

(4) A list of all partners, indicating whether they are general, limited, etc. and giving their citizenship and residence as of the applicable effective date and as of the date of filing of the application.

[40 FR 7651, Feb. 21, 1975]

§ 500.559 Accounts of Chinese, North Korean, or North Viet-Nameese sole proprietorships.

Specific licenses are issued unblocking sole proprietorships established under the laws of China, North Korea, or North Viet-Nam if

the proprietor has emigrated from those countries and established residence in the United States or a country in the authorized trade territory. Such licenses do not unblock any indebtedness of the proprietorship due to persons in North Korea or North Viet-Nam or to persons in China if the indebtedness existed prior to May 7, 1971.

[40 FR 7651, Feb. 21, 1975]

§ 500.560 Bank accounts of official representatives in North Korea or North Viet-Nam of foreign governments.

Specific licenses are issued authorizing payments from accounts of official representatives in North Korea or North Viet-Nam of foreign governments for transactions which are not inconsistent with the purposes of any of the regulations in this chapter.

[40 FR 7651, Feb. 21, 1975]

§ 500.561 Transfers of abandoned property under State laws.

(a) Except as stated in paragraph (b) of this section, specific licenses are not issued authorizing the transfer of blocked property to State agencies under State laws governing abandoned property.

(b) Specific licenses are issued authorizing the transfer of blocked property, pursuant to the laws of the State governing abandoned property, to the appropriate State agency provided that the State's laws are custodial in nature, *i.e.*, there is no permanent transfer of beneficial interest to the State. Licenses require the property to be held by the State in accounts which are identified as blocked under the regulations. A separate index of these blocked assets is required to be maintained by the State agency.

[40 FR 7651, Feb. 21, 1975]

§ 500.562 News materials from North Korea or North Viet-Nam.

(a) *Imports by newsgathering agencies.* Specific licenses are issued for the purchase and importation of North Korean and North Vietnamese origin newspapers, magazines, photographs, films, tapes, and other news material or copies thereof by newsgathering agencies in the United States without restriction as to method of payment, provided such materials are imported for domestic news publication or news broadcast dissemination.

(b) *News material acquired in North Korea or North Viet-Nam by journalists and news correspondents.* (1) Specific licenses are issued to journalists and news correspondents holding U.S. passports validated for travel to North Korea or North Viet-Nam authorizing (i) payment of expenses for travel to and from, and maintenance within, North Korea or North Viet-Nam for the purpose of gathering and transmitting news to the United States; and (ii) the acquisition in North Korea or North Viet-Nam for transmission to and importation into the United States of newspapers, magazines, photographs, films, tapes, and other news material, or copies thereof, necessary for the journalistic assignments.

(2) A condition of any such license as it applies to an importation is that a validated United States passport for travel to North Korea or North Viet-Nam must be presented to Customs at the time of importation.

[40 FR 7651, Feb. 21, 1975]

SUBPART F—REPORTS

§ 500.601 Records.

Every person engaging in any transaction subject to the provisions of this chapter shall keep a full and accurate record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least two years after the date of such transaction.

[24 F.R. 1984, Mar. 18, 1959]

§ 500.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required by the Secretary of the Treasury or any person acting under his direction or authorization complete information relative to any transaction subject to the provisions of this chapter or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect. The Secretary of the Treasury or any person acting under his direction may require that such reports include the production of any books of account, contracts, letters or other papers, connected with any such transaction or property, in the custody or control of the persons required to make such reports. Reports with respect to transactions may be required either before or after such transactions are completed. The Secretary of the Treasury may, through any person or agency, investigate any such transaction or property or any violation of the provisions of this chapter regardless of whether any report has been required or filed in connection therewith.

§ 500.610 Reports on Form TFR-610.

(a) *Requirement for reports.* Reports on Form TFR-610 are hereby required to be filed on or before October 1, 1970, in the manner prescribed herein with respect to all property subject to the jurisdiction of the United States on December 18, 1950, in which on that date China or a Chinese national had any direct or indirect interest and which was reported on Form TFR-603. In addition, reports on Form TFR-610 are required to be filed with respect to all property subject to the jurisdiction of the United States on July 1, 1970, in which on that date China or Chinese national had any direct or indirect interest, except any such national who is unblocked. (See subparagraph (3) of this paragraph for exemptions.)

(1) *Who must report.* (i) Every person (or his successor) in the United States who is either:

(a) A person who filed a report on Form TFR-603 with respect to any property he held, or had in his custody, control, or possession, directly or indirectly, in trust or otherwise, in which there was as of December 18, 1950, any direct or indirect interest of China or a Chinese national; or

(b) A person who held, or had in his custody, control, or possession, directly or indirectly, in trust or otherwise, any property on July 1, 1970, in which there was as of that date any direct or indirect interest of China or a Chinese national or,

(c) A business or nonbusiness entity in the United States with respect to any financial interest in such entity of China or a Chinese national which was reported on Form TFR-603 or which interest existed on July 1, 1970; or

(d) An agent or representative in the United States of China or a Chinese national, who reported his principal's property on Form TFR-603 or who has any information with respect to property subject to the jurisdiction of the United States on July 1, 1970, in which his Chinese principal had any interest on that date.

(2) *Primary responsibility for reporting.* (i) Primary responsibility for reporting property blocked as of July 1, 1970, is on the person having actual custody thereof, with the following exceptions: Primary responsibility for reporting any trust is on the trustee; for any estate on the executor or administrator; for any safe deposit box on the lessee.

(ii) No person is excused from filing Form TFR-610 by reason of the fact that another person has submitted a report with regard to the same property unless he has actual knowledge the other person has filed a report with respect to the same interests in the property of the national which is as full and complete as that which such person would otherwise be required to file.

(iii) A report on Form TFR-610 must be filed by every person or his successor who reported property on Form TFR-603, whether or not he held the property on July 1, 1970.

(3) *Property which is not required to be reported.* (i) Property of an unblocked Chinese national, except property which was reported on Form TFR-603.

(ii) Patents, trademarks, copyrights, and inventions, but this exemption shall not constitute a waiver of any reporting requirement with respect to royalties due and unpaid.

(4) *Separation of reports for different nationals.* (i) A separate report shall be made with respect to China and each Chinese national having any interest in any property to be reported but all items of property of each person shall be included in one report.

(ii) If it is known or there is reasonable cause to believe that a Chinese national other than the Chinese national in whose name and property was carried had an adverse claim upon the property, the property must be shown on a separate report for the national in whose name the property was carried and for each such adverse claimant.

(5) *Obtaining Form TFR-610.* Forms TFR-610 with reporting instructions are being mailed to all persons who reported on Form TFR-603 in January 1951. Other persons required to report or otherwise interested in obtaining Form TFR-610 may do so by applying to Unit 610, Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220, or to the Federal Reserve Bank of New York, 33 Liberty Street, New York, N.Y. 10045, for copies of Form TFR-610 and the reporting instructions.

(6) *Filing Form TFR-610.* Reports on Form TFR-610 shall be prepared in duplicate. On or before October 1, 1970, both copies shall be sent in a set to Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220.

(7) *Confidentiality of reports.* Reports filed on Form TFR-610 are regarded as privileged and confidential.

[35 F.R. 13124, Aug. 18, 1970]

SUBPART G—PENALTIES

§ 500.701 Penalties.

(a) Attention is directed to section 5 (b) of the Trading With the Enemy Act, as amended, which provides in part:

Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000 or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

This section of the Trading With the Enemy Act, as amended, is applicable to violations of any provision of this chapter and to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this chapter or otherwise under section 5(b) of the Trading With the Enemy Act, as amended.

(b) Attention is also directed to 18 U.S.C. 1001 which provides:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

SUBPART H—PROCEDURES

§ 500.801 Licensing.

(a) *General licenses.* General licenses have been issued authorizing under appropriate terms and conditions, many types of transactions which are subject to the prohibitions contained in Subpart B. All such licenses are set forth in Subpart E. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of certain general licenses are required to file reports and statements in the form and in accordance with the instructions specified in the licenses.

(b) *Specific licenses—*(1) *General course of procedure.* Transactions subject to the prohibitions contained in Subpart B of this part which are not authorized by general license may be effected only under specific license. The specific licensing activities of the Office of Foreign Assets Control are performed by the central organization and the Federal Reserve Bank of New York. When an unusual problem is presented, the proposed action is cleared with the Director of the Office of Foreign Assets Control or such person as he may designate.

(2) *Applications for specific licenses.* Applications for specific licenses to engage in any transaction prohibited by or pursuant to this chapter are to be filed in duplicate on Form TFAC-1 with the Federal Reserve Bank of New York. Any person having an interest in a transaction or proposed transaction may file an application for a license

authorizing the effecting of such transaction, and there is no requirement that any other person having an interest in such transactions shall or should join in making or filing such application.

(3) *Information to be supplied.* Applicants must supply all information specified by the respective forms and instructions. Such documents as may be relevant shall be attached to each application as a part of such application except that documents previously filed with the Office of Foreign Assets Control may, where appropriate, be incorporated by reference. Applicants may be required to furnish such further information as is deemed necessary to a proper determination by the Control. If an applicant or other party in interest desires to present additional information or discuss or argue the application, he may do so at any time before or after the decision. Arrangements for oral presentation should be made with the Control.

(4) *Effect of denial.* The denial of a license does not preclude the reopening of an application of the filing or a further application. The applicant or any other party in interest may at any time request explanation of the reasons for a denial by correspondence or personal interview.

(5) *Reports under specific licenses.* As a condition upon the issuance of any license, the licensee may be required to file reports with respect to the transaction covered by the license, in such form and at such times and places as may be prescribed in the license or otherwise.

(6) *Issuance of license.* Licenses will be issued by the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury or by the Federal Reserve Bank of New York, acting in accordance with such regulations, rulings and instructions as the Secretary of the Treasury or the Office of Foreign Assets Control may from time to time prescribe, in such cases or classes of cases as the Secretary of the Treasury or the Office of Foreign Assets Control may determine, or licenses may be issued by the Secretary of the Treasury acting directly or through any person, agency, or instrumentality designated by him.

§ 500.802 Unblocking.

Any interested person desiring the unblocking of accounts or other property on the ground that no person having an interest in the property is a designated national may file such an application. Such application shall be filed in the manner provided in § 500.801(b) and shall contain full information in support of the administrative action requested.

The applicant is entitled to be heard on the application. If the applicant desires a hearing, arrangements should be made with Foreign Assets Control.

§ 500.803 Decision.

The Office of Foreign Assets Control or the Federal Reserve Bank of New York will advise each applicant of the decision respecting applications filed by him. The decision of the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury with respect to an application shall constitute final agency action.

[32 F.R. 10846, July 25, 1967]

§ 500.804 Records and reporting.

Records are required to be kept by every person engaging in any transaction subject to the provisions of this chapter, as provided in

§ 500.601. Reports may be required from any person with respect to any transaction subject to the provisions of this chapter or relative to any property in which any foreign country or any national thereof has any interest, as provided in § 500.602.

[35 F.R. 4045, Mar. 4, 1970]

§ 500.805 Amendment, modification, or revocation.

The provisions of this chapter and any rulings, licenses, authorizations, and instructions, orders, or forms issued thereunder may be amended, modified, or revoked at any time.

§ 500.806 Rule making.

All rules and other public documents are issued by the Secretary of the Treasury upon recommendation of the Director of the Office of Foreign Assets Control. Except to the extent that there is involved any military, naval, or foreign affairs function of the United States or any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts and except when interpretative rules, general statement of policy, or rules of agency organization, practice, or procedure are involved or when notice and public procedure are impracticable, unnecessary or contrary to the public interest, interested persons will be afforded an opportunity to participate in rule making through submission of written data, views, or argument, with oral presentation in the discretion of the Director. In general, rule making by the Office of Foreign Assets Control involves foreign affairs functions of the United States. Wherever possible, however, it is the practice to hold informal consultations with interested groups or persons before the issuance of any rule or other public document.

Any interested person may petition the Director of the Office of Foreign Assets Control in writing for the issuance, amendment or repeal of any rule.

§ 500.807 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to the Trading With the Enemy Act may be taken by any person to whom the Secretary of the Treasury has delegated authority so to act.

§ 500.808 Customs procedures; merchandise specified in § 500.204.

(a) With respect to merchandise specified in § 500.204, whether or not such merchandise has been imported into the United States, directors of customs shall not accept or allow any:

(1) Entry for consumption (including any appraisement entry, any entry of goods imported in the mails, regardless of value, or any other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone, until either;

(i) a specific license pursuant to this chapter is presented; or,

(ii) instructions from the Foreign Assets Control, either directly or through the Federal Reserve Bank of New York, authorizing the transaction are received.

(b) Whenever a specific license is presented to a director of customs in accordance with this section, one additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be filed with the director of customs at the port where the transaction is to take place. Each copy of any such entry, withdrawal or other appropriate document, including the additional copy, shall bear plainly on its face the number of the license pursuant to which it is filed. The original copy of the specific license shall be presented to the director in respect to each such transaction and shall bear a notation in ink by the licensee or person presenting the license showing the description, quantity, and value of the merchandise to be entered, withdrawn or otherwise dealt with. This notation should be so placed and so written that there will exist no possibility of confusing it with anything placed on the license at the time of its issuance. If the license in fact authorizes the entry, withdrawal or other transaction with regard to the merchandise, the director, or other authorized customs employee, shall verify the notation by signing or initialing it after first assuring himself that it accurately describes the merchandise it purports to represent. The license shall thereafter be returned to the person presenting it and the additional copy of the entry, withdrawal or other appropriate document shall be forwarded by the director to the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220.

(c) Whenever a person shall present an entry, withdrawal or other appropriate document affected by this section and shall assert that no specific Foreign Assets Control license is required in connection therewith, the director of customs shall withhold action thereon and shall advise such person to communicate directly with the Federal Reserve Bank of New York to request that instructions be issued to the director to authorize him to take action with regard thereto.

[40 FR 7651, Feb. 21, 1975]

§ 500.899 Rules governing availability of information.

(a) The records of the Office of Foreign Assets Control required by 5 U.S.C. 552 to be made available to the public shall be made available in accordance with the definitions, procedures, payment of fees, and other provisions of the regulations on the Disclosure of Records of the Office of the Secretary and of other bureaus and offices of the Department issued under 5 U.S.C. 552 and published as Part 1 of this Title 31 of the Code of Federal Regulations. 32 F.R. 9562, July 1, 1967.

(b) Form TFAC-1 and any other form used in connection with the Foreign Assets Control Regulations may be obtained in person from or by writing to the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220, or the Foreign Assets Control Division, Federal Reserve Bank of New York, 33 Liberty Street, New York, N.Y. 10045.

[32 F.R. 10846, July 25, 1967]

F. Part 505—Regulations Prohibiting Transactions Involving the Shipment of Certain Merchandise Between Foreign Countries

- Sec.
505.01 Short title.
505.10 Prohibitions.
505.20 Definitions.
505.30 Licenses.
505.31 General license for offshore transactions from certain countries.
505.40 Records and reports.
505.50 Penalties.
505.60 Procedures.

AUTHORITY: The provisions of this Part 505 issued under sec. 5, 40 Stat. 415, as amended; 50 U.S.C. App. 5, E.O. 9193, 7 F.R. 5205, 3 CFR, 1938-1943 Comp., p. 1174; 1943 Cum. Supp., E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp. p. 748.

SOURCE: The provisions of this Part 505 appear at 18 F.R. 4291, July 23, 1953, unless otherwise noted.

§ 505.01 Short title.

The regulations in this part may be referred to as the Transaction Control Regulations.

[19 F.R. 5483, Aug. 27, 1954]

§ 505.10 Prohibitions.

Except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, no person within the United States, for his own account or that of another, may purchase or sell or arrange the purchase or sale of any merchandise in any foreign country or obtain from any banking institution a credit or payment in connection therewith, or attempt to do any of the foregoing, if (a) the transaction involves the shipment from any foreign country of any merchandise directly or indirectly to any destination within a country on the attached schedule, and (b) the merchandise is included in the Commodity Control List of the U.S. Department of Commerce set forth in 15 CFR Part 399 and is followed on that list by the letter "A" in the column headed "Special Provisions List" or is of a type the unauthorized exportation of which from the United States is prohibited by any of the several regulations referred to in 15 CFR 370.5.

SCHEDULE

Albania.
Bulgaria.
China (Communist controlled).
Czechoslovakia.
Estonia.
Germany (only those areas under control of administration of the Union of Soviet Socialist Republic or Poland).
Hungary.
Latvia.
Lithuania.
North Korea.
Outer Mongolia.
Poland and Danzig.

SCHEDULE—Continued

Roumania.

Tibet.

Union of Soviet Socialist Republics.

North Viet-Nam, i.e., Viet-Nam north of the 17th parallel of north latitude.

[30 F.R. 1284, Feb. 6, 1965]

§ 505.20 Definitions.

The definitions contained in Subpart C, Part 500 of this chapter are applicable to any terms therein defined which are used in this part.

[19 F.R. 5483, Aug. 27, 1954]

§ 505.30 Licenses.

No regulation, ruling, instruction or license authorizes a transaction prohibited by § 505.10 unless the regulation, ruling, instruction or license is issued by the Treasury Department and specifically refers to that section.

§ 505.31 General license for offshore transactions from certain countries.

(a) Except as provided in paragraph (b) of this section, transactions prohibited by § 500.201 of this chapter are authorized to the extent they comply with § 500.541 of this chapter and this section, and all other transactions prohibited by § 505.10 are hereby authorized provided:

(1) Shipment is to a country listed in the schedule of § 505.10, other than North Korea or North Viet Nam; and,

(2) Shipment is made from and licensed by one of the following foreign countries: Belgium, Canada, Denmark, Federal Republic of Germany, France, Greece, Italy, Japan, Luxembourg, The Netherlands, Norway, Portugal, Turkey, or the United Kingdom.

(b) This section does not authorize any transaction prohibited by Part 515 or Part 530 of this chapter.

[37 F.R. 3520, Feb. 17, 1972]

§ 505.40 Records and reports.

For provisions relating to records and reports see §§ 500.601 and 500.602 of this chapter.

§ 505.50 Penalties.

For provision relating to penalties, see § 500.701 of this chapter.

§ 505.60 Procedures.

For provisions relating to procedures, see §§ 500.801(b) (2), (3), (4), (5) and (6), 500.803, 500.804, 500.805, 500.806, and 500.807 of this chapter.

G. Part 515—Cuban Assets Control Regulations

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Sec.

- 515.101 Relation of this part to other laws and regulations.

SUBPART B—PROHIBITIONS

- 515.201 Transactions involving designated foreign countries or their nationals; effective date.
515.202 Transactions with respect to securities registered or inscribed in the name of a designated national.
515.203 Effect of transfers violating the provisions of this part.
515.204 Importation of and dealings in certain merchandise.

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515.302 National.
515.303 Nationals of more than one foreign country.
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515.307 Unblocked national.
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515.313 Property subject to the jurisdiction of the United States.
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515.317 General license.
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515.319 Blocked account.
515.320 Domestic bank.
515.321 United States; continental United States.
515.322 Authorized trade territory; member of the authorized trade territory.
515.323 Occupied area.
515.324 [Reserved]
515.325 National securities exchange.
515.326 Custody of safe deposit boxes.
515.327 Blocked estate of a decedent.
515.328 [Reserved]
515.329 Person subject to the jurisdiction of the United States.
515.330 Person within the United States.
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- 515.408 Access to certain safe deposit boxes prohibited.
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- 515.513 Purchase and sale of certain securities.
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- 515.518 Payments for living, traveling, and similar personal expenses in the United States.
- 515.519 Limited payments from accounts of United States citizens abroad.
- 515.520 Payments from accounts of United States citizens in employ of United States in foreign countries and certain other persons.
- 515.521 Certain remittances for necessary living expenses.
- 515.522 Certain remittances to United States citizens in foreign countries.
- 515.523 Transactions incident to the administration of decedents' estates.
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- 515.527 Certain transactions with respect to United States patents, trademarks, and copyrights.
- 515.528 Certain transactions with respect to blocked foreign patents, trademarks and copyrights authorized.
- 515.529 Powers of attorney.
- 515.530 Exportation of powers of attorney or instructions relating to certain types of transactions.
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- 515.535 Exchange of certain securities.
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- 515.540 Passengers' baggage.
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- 515.542 Communications.
- 515.543 Proof of origin.
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- 515.545 Books and other publications, films phonograph records, tapes, photographs, microfilm, microfiche and posters of Cuban origin.

Sec.

- 515.546 News material from Cuba.
- 515.547 Research samples.
- 515.548 Services rendered by Cuba to United States aircraft.
- 515.549 Bank accounts and other property of non-Cuban citizens who were in Cuba on or after July 8, 1963.
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- 515.551 Joint bank accounts.
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SUBPART H—PROCEDURES

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- 515.805 Amendment, modification, or revocation.
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- 515.807 Delegation by the Secretary of the Treasury.
- 515.808 Customs procedures; merchandise specified in § 500.204.
- 515.809 Rules governing availability of information.

AUTHORITY: The provisions of this Part 515 issued under sec. 5, 40 Stat. 415, as amended; 50 U.S.C. App. 5, sec. 620(a), 75 Stat. 445; 22 U.S.C. 2370(a); Proc. 3447, 27 F.R. 1085, 3 CFR, 1959-1963 Comp.; E.O. 9193, 7 F.R. 5205, 3 CFR, Cum. Supp., p. 1174, EO 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748.

SOURCE: The provisions of this Part 515 appear at 28 F.R. 6974, July 9, 1963; 38 F.R. 7427, July 20, 1963; 28 F.R. 7941, Aug. 3, 1963, unless otherwise noted.

SUBPART A—RELATION OF THIS PART TO OTHER LAWS AND REGULATIONS

§515.101 Relations of this part to other laws and regulations.

The Cuban Import Regulations issued on February 6, 1962, as amended, are hereby revoked and the following Regulations are hereby adopted in place thereof controlling all financial and commercial transactions involving Cuba or nationals thereof, provided that the revocation of the Cuban Import Regulations shall not be deemed to authorize any unlicensed importation prohibited by the Cuban Import Regulations and all penalties, forfeitures, and liabilities under such Regulations or any other applicable laws or regulations shall continue and may be enforced as if such revocation had not been made.

(a) This part is independent of 8 CFR Ch. II. The prohibitions contained in this part are in addition to the prohibitions contained in 8 CFR Ch. II. No license or authorization contained in or issued pursuant to 8 CFR Ch. II shall be deemed to authorize any transaction prohibited by this part, nor shall any license or authorization issued pursuant to any other provision of law (except this part) be deemed to authorize any transaction so prohibited.

(b) No license or authorization contained in or issued pursuant to this part shall be deemed to authorize any transaction to the extent that it is prohibited by reason of the provisions of any law or any statute other than paragraph (2) of Proclamation 3447, issued under § 620(a), P.L. 87-195, or section 5(b) of the Trading With the Enemy Act, as amended or any proclamation, order or regulation other than those contained in or issued pursuant to this part.

SUBPART B—PROHIBITIONS

§ 515.201 Transactions involving designated foreign countries or their nationals; effective date.

(a) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, if either such transactions are by, or on behalf of, or pursuant to the direction of a foreign country designated under this part, or any national thereof, or such transactions involve property in which a foreign country designated under this part, or any national thereof, has at any time on or since the effective date of this section had any interest of any nature whatsoever, direct or indirect:

(1) All transfers of credit and all payments between, by, through, or to any banking institution or banking institutions wheresoever located, with respect to any property subject to the jurisdiction of the United States or by any person (including a banking institution) subject to the jurisdiction of the United States;

(2) All transactions in foreign exchange by any person within the United States; and

(3) The exportation or withdrawal from the United States of gold or silver coin or bullion, currency or securities, or the earmarking of any such property, by any person within the United States.

(b) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, if such transactions involve property in which any foreign country designated under this part, or any national thereof, has at any time on or since the effective date of this section had any interest of any nature whatsoever, direct or indirect:

(1) All dealings in, including, without limitation, transfers, withdrawals, or exportations of, any property or evidences of indebtedness or evidences of ownership of property by any person subject to the jurisdiction of the United States; and

(2) All transfers outside the United States with regard to any property or property interest subject to the jurisdiction of the United States.

(c) Any transaction for the purpose or which has the effect of evading or avoiding any of the prohibitions set forth in paragraphs (a) or (b) of this section is hereby prohibited.

(d) For the purposes of this part, the term "foreign country designated under this part" and the term "designated foreign country" mean Cuba and the term "effective date" and the term "effective date

of this section" mean with respect to Cuba, or any national thereof, 12:01 a.m., e.s.t., July 8, 1963.

§ 515.202 Transactions with respect to securities registered or inscribed in the name of a designated national.

Unless authorized by a license expressly referring to this section, the acquisition, transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on or otherwise dealing in any security (or evidence thereof) registered or inscribed in the name of any designated national is prohibited irrespective of the fact that at any time (either prior to, on, or subsequent to the "effective date") the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of any such security.

§ 515.203 Effect of transfers violating the provisions of this part.

(a) Any transfer after the "effective date" which is in violation of any provision of this part or of any regulation, ruling, instruction, license, or other direction or authorization thereunder and involves any property in which a designated national has or has had an interest since such "effective date" is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before the "effective date" shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property in which a designated national has or has had an interest since the "effective date" unless the person with whom such property is held or maintained had written notice of the transfer or by any written evidence had recognized such transfer prior to such "effective date."

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Secretary of the Treasury before, during or after a transfer shall validate such transfer or render it enforceable to the same extent as it would be valid or enforceable but for the provisions of section 5(b) of the Trading With the Enemy Act, as amended, and this part and any ruling, order, regulation, direction or instruction issued hereunder.

(d) Transfers of property which otherwise would be null and void, or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void, or unenforceable pursuant to such provisions, as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to the provisions of this part and was not so licensed or authorized or if a license

or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license or other direction or authorization thereunder, or

(ii) Such transfer was not licensed or authorized by the Secretary of the Treasury, or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; the person with whom such property was held or maintained filed with the Treasury Department, Washington, D.C., a report in triplicate setting forth in full the circumstances relating to such transfer. The filing of a report in accordance with the provisions of this paragraph shall not be deemed to be compliance or evidence of compliance with subparagraphs (1) and (2) of this paragraph.

(e) Unless licensed or authorized by § 515.504 or otherwise licensed or authorized pursuant to this chapter any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the "effective date" there existed the interest of a designated foreign country or national thereof.

(f) For the purpose of this section the term "property" includes gold, silver, bullion, currency, coin, credit, securities (as that term is defined in section 2(1) of the Securities Act of 1933, as amended), bills of exchange, notes, drafts, acceptances, checks, letters of credit, book credits, debts, claims, contracts, negotiable documents of title, mortgages, liens, annuities, insurance policies, options and futures in commodities, and evidences of any of the foregoing. The term "property" shall not, except to the extent indicated, be deemed to include chattels or real property.

§515.204 Importation of and dealings in certain merchandise.

(a) Except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, no person subject to the jurisdiction of the United States may purchase, transport, import, or otherwise deal in or engage in any transaction with respect to any merchandise outside the United States if such merchandise:

(1) Is of Cuban origin; or

(2) Is or has been located in or transported from or through Cuba; or

(3) Is made or derived in whole or in part of any article which is the growth, produce or manufacture of Cuba.

SUBPART C—GENERAL DEFINITIONS

§515.301 Foreign country.

The term "foreign country" also includes, but not by way of limitation:

(a) The state and the government of any such territory on or after the "effective date" as well as any political subdivision, agency, or

instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof,

(b) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise control, authority, jurisdiction or sovereignty over territory which on the "effective date" constituted such foreign country,

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the "effective date," acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing, and

(d) Any territory which on or since the "effective date" is controlled or occupied by the military, naval or police forces or other authority of such foreign country.

§ 515.302 National.

(a) The term "national" shall include:

(1) A subject or citizen of, or any person who has been within, a foreign country, whether domiciled or resident therein or otherwise at any time on or since the "effective date."

(2) Any partnership, association, corporation, or other organization, organized under the laws of, or which on or since the "effective date" had or has had its principal place of business in a foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, a foreign country and/or one or more nationals thereof as defined in this section.

(3) Any person to the extent that such person is or has been, since the "effective date" acting or purporting to act directly or indirectly for the benefit or on behalf of any national of a foreign country.

(4) Any other person who there is reasonable cause to believe is a "national" as defined in this section.

(b) The Secretary of the Treasury retains full power to determine that any person is or shall be deemed to be a "national" within the meaning of this section, and to specify the foreign country of which such person is or shall be deemed to be a national.

§ 515.303 Nationals of more than one foreign country.

(a) Any person who by virtue of any provision in this chapter is a national of more than one foreign country shall be deemed to be a national of each of such foreign countries.

(b) In any case in which a person is a national of two or more designated foreign countries, as defined in this chapter, a license or authorization with respect to nationals of one of such designated foreign countries shall not be deemed to apply to such person unless a license or authorization of equal or greater scope is outstanding with respect to nationals of each other designated foreign country of which such person is a national.

(c) In any case in which the combined interests of two or more designated foreign countries, as defined in this chapter, and/or nationals thereof are sufficient in the aggregate to constitute control or

ownership of 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries.

§ 515.304 [Reserved]

§ 515.305 Designated national.

For the purposes of this part, the term "designated national" shall mean Cuba and any national thereof including any person who is a specially designated national.

§ 515.306 Specially designated national.

(a) The term "specially designated national" shall mean:

(1) Any person who is determined by the Secretary of the Treasury to be a specially designated national,

(2) Any person who on or since the "effective date" has acted for or on behalf of the Government or authorities exercising control over a designated foreign country, or

(3) Any partnership, association, corporation or other organization which on or since the "effective date" has been owned or controlled directly or indirectly by the Government or authorities exercising control over a designated foreign country or by any specially designated national.

§ 515.307 Unblocked national.

Any person licensed as an "unblocked national" shall, while so licensed, be regarded as a person within the United States who is not a national of any designated foreign country: *Provided, however*, That the licensing of any person as an "unblocked national" shall not be deemed to suspend in any way the requirements of any section of this chapter relating to reports, or the production of books, documents, and records specified therein.

§ 515.308 Person.

The term "person" means an individual, partnership, association, corporation, or other organization.

§ 515.309 Transactions.

The phrase "transactions which involve property in which a designated foreign country, or any national thereof, has any interest of any nature whatsoever, direct or indirect," includes, but not by way of limitation (a) any payment or transfer to such designated foreign country or national thereof, (b) any export or withdrawal from the United States to such designated foreign country, and (c) any transfer of credit, or payment of an obligation, expressed in terms of the currency of such designated foreign country.

§ 515.310 Transfer.

The term "transfer" shall mean any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, transfer, or alter, di-

rectly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and without limitation upon the foregoing shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, safe, affidavit, or statement; the appointment of any agent, trustee, or other fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power.

§ 515.311 Property; property interests.

Except as defined in § 515.203(f) for the purposes of that section the terms "property" and "property interest" or "property interests" shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness obligations, notes, debentures, stocks, bonds, coupons, any other financial securities, bankers, acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks, copyrights, contracts or licenses affecting or involving patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 515.312 Interest.

The term "interest" when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

§ 515.313 Property subject to the jurisdiction of the United States.

(a) The phrase "property subject to the jurisdiction of the United States" includes, without limitation, securities, whether registered or bearer, issued by:

(1) The United States or any State, district, territory, possession, county, municipality, or any other subdivision or agency or instrumentality of any thereof; or

(2) Any person with the United States whether the certificate which evidences such property or interest is physically located within or outside the United States.

(b) The phrase "property subject to the jurisdiction of the United States" also includes, without limitation, securities, whether registered or bearer, by whomsoever issued, if the instrument evidencing such property or interest is physically located within the United States.

§ 515.314 Banking institution.

The term "banking institution" shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchases and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or any broker; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution."

§ 515.315 [Reserved]**§ 515.316 License.**

Except as otherwise specified, the term "license" shall mean any license or authorization contained in or issued pursuant to this part.

§ 515.317 General license.

A general license is any license or authorization the terms of which are set forth in this part.

§ 515.318 Specific license.

A specific license is any license or authorization issued pursuant to this part but not set forth in this part.

§ 515.319 Blocked account.

The term "blocked account" shall mean an account in which any designated national has an interest, with respect to which account payments, transfers or withdrawals or other dealings may not be made or effected except pursuant to an authorization or license authorizing such action. The term "blocked account" shall not be deemed to include accounts of unblocked nationals.

§ 515.320 Domestic bank.

The term "domestic bank" shall mean any branch or office within the United States of any of the following which is not a national of a designated foreign country; any bank or trust company incorporated under the banking laws of the United States or any State, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States or of any State, territory or district of the United States. The Secretary of the Treasury may also authorize any other banking institution to be treated as a "domestic bank" for the purpose of this definition or for the purpose of any or all sections of this part.

§ 515.321 United States; continental United States.

The term "United States" means the United States and all areas under the jurisdiction or authority thereof including the Panama Canal Zone and the Trust Territory of the Pacific Islands. The term "continental United States" means the States of the United States and the District of Columbia.

§ 515.322 Authorized trade territory; member of the authorized trade territory.

(a) The term "authorized trade territory" shall include:

- (1) North, South, and Central America, including the Caribbean region, except Cuba;
- (2) Africa;
- (3) Oceania, including Indonesia and the Philippines;
- (4) Andorra, Austria, Belgium, Denmark, Ireland, the Federal Republic of Germany, and the Western Sector of Berlin, Finland, France

(including Monaco), Greece, Iceland, Italy, Liechtenstein, Luxembourg, the Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, the United Kingdom and Yugoslavia;

(5) Afghanistan, Bhutan, Burma, Cambodia, Ceylon, Hong Kong, India, Iran, Iraq, Israel, Japan, Jordan, Kuwait, Laos, Lebanon, Macao, Malaysia, Muscat and Oman, Nepal, Pakistan, Saudi Arabia, Singapore, South Korea, South Viet-Nam, Syrian Arab Republic, Taiwan, Thailand, and Yemen;

(6) Any colony, territory, possession, or protectorate of any country included within this paragraph; but the term shall not include the United States.

(b) The term "member of the authorized trade territory" shall mean any of the foreign countries or political subdivisions comprising the authorized trade territory.

[31 F.R. 13945, Nov. 1, 1966]

§ 515.323 Occupied area.

The term "occupied area" shall mean any territory occupied by a designated foreign country which was not occupied by such country prior to the "effective date" of this part.

§ 515.324 [Reserved]

§ 515.325 National securities exchange.

The term "national securities exchange" shall mean an exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (48 Stat. 885, 15 U.S.C. 78f).

§ 515.326 Custody of safe deposit boxes.

Safe deposit boxes shall be deemed to be in the "custody" not only of all persons having access thereto but also of the lessors of such boxes whether or not such lessors have access to such boxes. The foregoing shall not in any way be regarded as a limitation upon the meaning of the term "custody."

§ 515.327 Blocked estate of a decedent.

The term "blocked estate of a decedent" shall mean any decedent's estate in which a designated national has an interest. A person shall be deemed to have an interest in a decedent's estate if he (a) was the decedent; (b) is a personal representative; or (c) is a creditor, heir, legatee, devisee, distributee, or beneficiary.

§ 515.328 [Reserved]

§ 515.329 Person subject to the jurisdiction of the United States.

(a) The term "person subject to the jurisdiction of the United States" includes:

(1) Any person, wheresoever located who is a citizen or resident of the United States;

(2) Any person actually within the United States;

(3) Any corporation organized under the laws of the United States or of any state, territory, possession, or district of the United States; and

(4) Any partnership, association, corporation, or other organization wheresoever organized or doing business which is owned or controlled by persons specified in subparagraph (1), (2), or (3) of this paragraph.

§ 515.330 Person within the United States.

(a) The term "person within the United States," includes:

(1) Any person, wheresoever located, who is a resident of the United States;

(2) Any person actually within the United States;

(3) Any corporation organized under the laws of the United States or of any state, territory, possession, or district of the United States; and

(4) Any partnership, association, corporation, or other organization, wheresoever organized, or doing business, which is owned or controlled by any person or persons specified in subparagraph (1), (2), or (3) of the paragraph.

§ 515.331 Merchandise.

The term "merchandise" means all goods, wares and chattels of every description without limitation of any kind.

SUBPART D—INTERPRETATIONS**§ 515.401 Reference to amended sections.**

Reference to any section of this part or to any regulation, ruling, order, instruction, direction or license issued pursuant to this part shall be deemed to refer to the same as currently amended unless otherwise so specified.

§ 515.402 Effect of amendment of sections of this part or of other orders, etc.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Secretary of the Treasury pursuant to section 3(a) or 5(b) of the Trading With the Enemy Act, as amended, or pursuant to Proclamation 3447, shall not unless otherwise specifically provided be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation, and all penalties, forfeitures, and liabilities under any such section, order, regulation, ruling, instruction or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 515.403 Termination and acquisition of the interest of a designated national.

(a) Except as provided in § 515.525, whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a designated national, such property shall no longer be deemed to be property in which a designated national has or has had an interest unless there exists in such property an interest of a designated national, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization contained in or issued pursuant to this part, if property (including any property interest) is transferred to a designated national such property shall be deemed to be property in which there exists the interest of a designated national.

§ 515.404 Transactions between principal and agent.

A transaction between any person within the United States and any principal, agent, home office, branch, or correspondent, outside the

United States of such person is a transaction prohibited by § 515.201 to the same extent as if the parties to the transaction were in no way affiliated or associated with each other.

§ 515.405 Exportation of securities, currency, checks, drafts and promissory notes.

Section 515.201 prohibits the exportation of securities, currency, checks, drafts and promissory notes to a designated foreign country.

§ 515.406 Drafts under irrevocable letters of credit; documentary drafts.

Section 515.201 prohibits the presentation, acceptance or payment of:

(a) Drafts or other orders for payment drawn under irrevocable letters of credit issued in favor or on behalf of any designated national;

(b) Drafts or other orders for payment, in which any designated national has on or since the "effective date" had any interest, drawn under any irrevocable letter of credit; and

(c) Documentary drafts in which any designated national has on or since the "effective date" had any interest.

§ 515.407 Administration of blocked estates of decedents.

Section 515.201 prohibits all transactions incident to the administration of the blocked estate of a decedent, including the appointment and qualification of personal representatives, the collection and liquidation of assets, the payment of claims, and distribution to beneficiaries. Attention is directed to § 515.523 which authorizes certain transactions in connection with the administration of blocked estates of decedents.

§ 515.408 Access to certain safe deposit boxes prohibited.

Section 515.201 prohibits access to any safe deposit box within the United States in the custody of any designated national or containing any property in which any designated national has any interest or which there is reasonable cause to believe contains property in which any such designated national has any interest. Attention is directed to § 515.517 which authorizes access to such safe deposit boxes under certain conditions.

§ 515.409 Certain payments to a designated foreign country and nationals through third countries.

Section 515.201 prohibits any request or authorization made by or on behalf of a bank or other person within the United States to a bank or other person outside of the United States as a result of which request or authorization such latter bank or person makes a payment or transfer of credit either directly or indirectly to a designated national.

§ 515.410 Dealing abroad in Cuban origin commodities.

Section 515.204 prohibits, unless licensed, the importation of commodities of Cuban origin. It also prohibits, unless licensed, persons subject to the jurisdiction of the United States from purchasing, transporting or otherwise dealing in commodities of Cuban origin which are outside the United States.

[39 FR 25317, July 10, 1974]

§ 515.411 Exclusion from authorization in § 515.518.

Heirs, legatees, etc. who acquire an interest in blocked property after July 8, 1963 pursuant to § 515.525 are excluded from the provisions

of § 515.518 authorizing debits to blocked accounts for certain personal expenditures.

[39 FR 25317, July 10, 1974]

§ 515.412 American-owned foreign firms: duties of U.S. Citizen officers and directors.

A general license in § 515.541 authorizes American-controlled firms located in the authorized trade territory (see § 515.322) and doing a non-banking business to engage in certain transactions with Cuba or its nationals without a specific license. However, this section does not authorize United States citizens who are officers, directors, or principal managerial personnel of such firms to engage, participate or be involved in transactions with Cuba; nor does it authorize such persons to allow firms which they control to engage in prohibited transactions with Cuba or its nationals. Such persons are regarded as being involved in prohibited transactions when they set policy to permit the foreign firm to engage in such transactions even if they do not themselves actively engage in such transactions.

[39 FR 25317, July 10, 1974]

§ 515.413 Furnishing technical advice to American-owned foreign firms.

Section 515.201 of the regulations does not prohibit an engineering firm in the United States from providing technical assistance to a person in a third country with respect to specifications, quality control, etc., although such advice may result in purchases by that third country person of goods of Cuban origin. The fact that the engineering firm is not within the scope of the license in Section 515.541 does not preclude such advice. However, the engineering firm may not itself procure any such goods for its own account or for that of the foreign person.

[39 FR 25317, July 10, 1974]

§ 515.414 Foreign branches of U.S. firm within the scope of § 515.541.

The provisions of § 515.541 are applicable to foreign branches of a U.S. firm.

[39 FR 25317, July 10, 1974]

SUBPART E—LICENSES, AUTHORIZATIONS, AND STATEMENTS OF LICENSING POLICY

§ 515.501 [Reserved]

§ 515.502 Effect of subsequent license or authorization.

(a) No license or other authorization contained in this part or otherwise issued by or under the direction of the Secretary of the Treasury pursuant to section 3(a) or 5(b) of the Trading With the Enemy Act, as amended, or section 620(a), Pub. L. 87-195, or Proclamation 3447, shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such license or other authorization specifically so provides.

(b) No regulation, ruling, instruction, or license authorizes a transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Treasury Department and specifically refers to this part. No regulation, ruling, instruction or license referring to this part shall be deemed to authorize any transaction prohibited by Part 500 of this chapter unless the regulation, ruling, instruction or license specifically refers to Part 500.

§ 515.503 Exclusion from licenses and authorizations.

The Secretary of the Treasury reserves the right to exclude from the operation of any license or from the privileges therein conferred or to restrict the applicability thereof with respect to particular persons, transactions or property or classes thereof. Such action shall be binding upon all persons receiving actual notice or constructive notice thereof.

§ 515.504 Certain judicial proceedings with respect to property of designated nationals.

(a) Subject to the limitations of paragraphs (b), (c) and (d) of this section judicial proceedings are authorized with respect to property in which on or since the "effective date" there has existed the interest of a designated national.

(b) A judicial proceeding is authorized by this section only if it is based upon a cause of action which accrued prior to the "effective date".

(c) This section does not authorize or license:

(1) The entry of any judgment or of any decree or order of similar or analogous effect upon any judgment book, minute book, journal or otherwise, or the docketing of any judgment in any docket book, or the filing of any judgment roll or the taking of any other similar or analogous action.

(2) Any payment or delivery out of a blocked account based upon a judicial proceeding nor does it authorize the enforcement or carrying out of any judgment or decree or order of similar or analogous effect with regard to any property in which a designated national has an interest.

(d) If a judicial proceeding relates to property in which there exists the interest of any designated national other than a person who would not have been a designated national except for his relationship to an occupied area, such proceeding is authorized only if it is based upon a claim in which no person other than any of the following has had an interest since the "effective date":

(1) A citizen of the United States;

(2) A corporation organized under the laws of the United States or any State, territory or possession thereof, or the District of Columbia;

(3) A natural person who is and has been since the "effective date" a resident of the United States and who has not been a specially designated national;

(4) A legal representative (whether or not appointed by a court of the United States) or successor in interest by inheritance, device, bequest, or operation of law, who falls within any of the categories specified in subparagraphs (1), (2), and (3) of this paragraph but only to the same extent that their principals or predecessors would be qualified by such subparagraphs.

§ 515.505 Certain persons in the United States unblocked.

(a) Except as provided in paragraph (b) of this section the following are hereby licensed as unblocked nationals:

(1) Any individual resident in and within the United States except an individual who on or after the "effective date" has acted or purported to act directly or indirectly for the benefit of or on behalf of a designated country.

(2) Any partnership, association, corporation, or other organization which is a national of a designated foreign country solely by reason of the interest of persons licensed by this section.

(b) This section does not license as an unblocked national any person who is a specially designated national.

§ 515.506 Certain persons in authorized trade territory unblocked.

(a) Except as provided in paragraph (b) of this section the following are hereby licensed as unblocked nationals:

(1) Any individual in the authorized trade territory except an individual who on or after the "effective date" was in or who on or since such date, has acted or purported to act directly or indirectly for the benefit of or on behalf of a designated foreign country.

(2) Any partnership, association, corporation, or other organization which is a national of a designated foreign country solely by reason of the interest of persons licensed by this section.

(b) This section does not license as an unblocked national any person who is a specially designated national.

§ 515.507 Individuals who are citizens of, and residing only in the United States, unblocked.

(a) Any individual who is a citizen of the United States, residing only in the United States, and who is a national of a designated foreign country solely by reason of having been formerly domiciled or resident therein is hereby licensed as an unblocked national.

(b) This section does not license as an unblocked national any individual citizen of the United States who is a national of a designated foreign country by reason of any fact other than his former domicile or residence in such country.

§ 515.508 Payments to blocked accounts in domestic banks.

(a) Any payment or transfer of credit to a blocked account in a domestic bank in the name of any designated national is hereby authorized providing such payment or transfer shall not be made from any blocked account if such payment or transfer represents, directly or indirectly, a transfer of the interest of a designated national to any other country or person.

(b) This section does not authorize:

(1) Any payment or transfer to any blocked account held in a name other than that of the designated national who is the ultimate beneficiary of such payment or transfer; or

(2) Any foreign exchange transaction including, but not by way of limitation, any transfer of credit, or payment of an obligation, expressed in terms of the currency of any foreign country.

(c) This section does not authorize any payment or transfer of credit comprising an integral part of a transaction which cannot be effected without the subsequent issuance of a further license.

(d) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a subaccount thereof, or the income derived from such securities to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(e) This section does not authorize any payment or transfer from a blocked account in a domestic bank to a blocked account held under

any name or designation which differs from the name or designation of the blocked account from which the payment or transfer is made.
[32 F.R. 10846, July 25, 1967]

§ 515.509 Entries in certain accounts for normal service charges.

(a) Any banking institution within the United States is hereby authorized to:

(1) Debit any blocked account with such banking institution (or with another office within the United States of such banking institution) in payment or reimbursement for normal service charges owed to such banking institution by the owner of such blocked account.

(2) Make book entries against any foreign currency account maintained by it with a banking institution in a designated foreign country for the purpose of responding to debits to such account for normal service charges in connection therewith.

(b) As used in this section, the term "normal service charge" shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, account carrying charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, check books, and other similar items.

§ 515.510 Payments to the United States, States and political subdivisions.

(a) The payment from any blocked account to the United States or any agency or instrumentality thereof or to any State, territory, district, county, municipality or other political subdivision in the United States, of customs duties, taxes, and fees payable thereto by the owner of such blocked account is hereby authorized.

(b) This section also authorizes transactions incident to the payment of customs duties, taxes, and fees, from blocked accounts, such as the levying of assessments, the creation and enforcement of liens, and the sale of blocked property in satisfaction of liens for customs duties, taxes, and fees.

§ 515.511 Transactions by certain business enterprises.

(a) Except as provided in paragraphs (b), (c) and (d) of this section any partnership, association, corporation or other organization which on the "effective date" was actually engaged in a commercial, banking or financial business within the United States and which is a national of a designated foreign country, is hereby authorized to engage in all transactions ordinarily incidental to the normal conduct of its business activities within the United States.

(b) This section does not authorize any transaction which would require a license if such organization were not a national of a designated foreign country.

(c) This section does not authorize any transaction by a specially designated national.

(d) Any organization engaging in business pursuant to this section shall not engage in any transaction, pursuant to this section or any other license or authorization contained in this part, which, directly or indirectly, substantially diminishes or imperils the assets of such

organization or otherwise prejudicially affects the financial position of such organization.

(e) No dealings with regard to any account shall be evidence that any person having an interest therein is actually engaged in commercial, banking or financial business within the United States.

§ 515.512 [Reserved]

§ 515.513 Purchase and sale of certain securities.

(a) The bona fide purchase and sale of securities on a national securities exchange by banking institutions within the United States for the account, and pursuant to the authorization, of nationals of a designated foreign country and the making and receipt of payments, transfers of credit, and transfers of such securities which are necessary incidents of any such purchase or sale are hereby authorized provided the following terms and conditions are complied with:

(1) In the case of the purchase of securities, the securities purchased shall be held in an account in a banking institution within the United States in the name of the national whose account was debited to purchase such securities; and

(2) In the case of the sale of securities, the proceeds of the sale shall be credited to an account in the name of the national for whose account the sale was made and in the banking institution within the United States which held the securities for such national.

(b) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a subaccount thereof, to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(c) Securities issued or guaranteed by the Government of the United States or any State, territory, district, county, municipality, or other political subdivision thereof (including agencies and instrumentalities of the foregoing) need not be purchased or sold on a national securities exchange, but purchases or sale of such securities shall be made at market value and pursuant to all other terms and conditions prescribed in this section.

§ 515.514 Payment of dividends and interest on and redemption and collection of securities.

(a) The payment to, and receipt by, a banking institution within the United States of funds or other property representing dividends or interest on securities held by such banking institution in a blocked account is hereby authorized provided the funds or other property are credited to or deposited in a blocked account in such banking institution in the name of the national for whose account the securities were held. Notwithstanding § 515.202, this paragraph authorizes the foregoing transactions although such securities are registered or inscribed in the name of any designated national and although the national in whose name the securities are registered or inscribed may not be the owner of such blocked account.

(b) The payment to, and receipt by, a banking institution within the United States of funds payable in respect of securities (including coupons) presented by such banking institution to the proper paying agents within the United States for redemption or collection for the account and pursuant to the authorization of nationals of a designated country is hereby authorized provided the proceeds of the redemption

or collection are credited to a blocked account in such banking institution in the name of the national for whose account the redemption or collection was made.

(c) The performance of such other acts, and the effecting of such other transactions, as may be necessarily incident to any of the foregoing, are also hereby authorized.

(d) This section does not authorize the crediting of the proceeds of the redemption or collection of securities (including coupons) held in a blocked account or a subaccount thereof, or the income derived from such securities to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(e) This section does not authorize any issuer or other obligor, with respect to a security, who is a designated national, to make any payment, transfer or withdrawal.

§ 515.515 Transfers of securities to blocked accounts in domestic banks.

(a) Transactions ordinarily incident to the transfer of securities from a blocked account in the name of any person to a blocked account in the same name in a domestic bank are hereby authorized provided such securities shall not be transferred from any blocked account if such transfer represents, directly or indirectly, a transfer of the interest of a designated national to any other country or person.

(b) This section does not authorize the transfer of securities held in a blocked account or subaccount thereof to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

[32 F.R. 10847, July 25, 1967]

§ 515.516 Voting and soliciting of proxies on securities.

Notwithstanding § 515.202, the voting and the soliciting of proxies or other authorizations is authorized with respect to the voting of securities issued by a corporation organized under the laws of the United States or of any State, territory, or district thereof, in which a designated national has any interest.

§ 515.517 Access to safe deposit boxes under certain conditions.

(a) Access to any safe deposit box leased to a designated national or containing property in which any designated national has an interest, and the deposit therein or removal therefrom of any property is hereby authorized, provided the following terms and conditions are complied with:

(1) Access shall be permitted only in the presence of an authorized representative of the lessor of such box; and

(2) In the event that any property in which any designated national has any interest is to be removed from such box, access shall be permitted only in the presence of an authorized representative of a banking institution within the United States, which may be the lessor of such box, which shall receive such property into its custody immediately upon removal from such box and which shall hold the same in a blocked account under an appropriate designation indicating the interest therein of designated nationals.

(b) The terms and conditions set forth in paragraph (a) of this section shall not apply to access granted to a representative of the

Office of Alien Property pursuant to any rule, regulation or order of such Office.

§ 515.518 Payments for living, traveling, and similar personal expenses in the United States.

(a) Payments and transfers of credit in the United States from blocked accounts in domestic banking institutions held in the name of an individual within the United States to or upon the order of such individual are hereby authorized provided the following terms and conditions are complied with:

(1) Such payments and transfers of credit may be made only for the living, traveling, and similar personal expenses in the United States of such individual or his family; and

(2) The total of all such payments and transfers of credit made under this section from the accounts of such individual may not exceed \$250 in any one calendar month.

(b) This section does not authorize any payment or transfer from an account in which a specially designated national has an interest.

§ 515.519 Limited payments from accounts of United States citizens abroad.

(a) Payments and transfers of credit from blocked accounts for expenditures within the United States or the authorized trade territory of any citizens of the United States who is within any foreign country are hereby authorized provided the following terms and conditions are complied with:

(1) Such payments and transfers shall be made only from blocked accounts in the name, or in which the beneficial interest is held by, such citizen or his family; and

(2) The total of all such payments and transfers made under this section shall not exceed \$1,000 in any one calendar month for any such citizen or his family.

(b) This section does not authorize any remittance to a designated foreign country or, any payment, transfer, or withdrawal which could not be effected without a license by a person within the United States who is not a national of a designated foreign country.

§ 515.520 Payments from accounts of United States citizens in employ of United States in foreign countries and certain other persons.

(a) Banking institutions within the United States are hereby authorized to make all payments, transfers and withdrawals from accounts in the name of citizens of the United States while such citizens are within any foreign country in the course of their employment by the Government of the United States.

(b) Banking institutions within the United States are also hereby authorized to make all payments, transfers and withdrawals from accounts in the name of members of the armed forces of the United States and of citizens of the United States accompanying such armed forces in the course of their employment by any organization acting on behalf of the Government of the United States while such persons are within any foreign country.

(c) This section is deemed to apply to the accounts of members of the armed forces of the United States and of citizens of the United States accompanying such armed forces in the course of their employment by the Government of the United States or by any organization acting on its behalf even though they are captured or reported missing.

§ 515.521 Certain remittances for necessary living expenses.

(a) Remittances by any person to any individual who is a resident of a foreign country and is within that foreign country are hereby authorized on the following terms and conditions:

(1) Such remittances are made only for the necessary living expenses of the payee and his household and do not exceed \$100 in any one calendar month to any one household;

(2) Such remittances are not made from a blocked account other than from an account in a banking institution within the United States in the name of, or in which the beneficial interest is held by, the payee or members of his household;

(3) Such remittances are not made from a blocked account which is blocked pursuant to Executive Order No. 8389, as amended;

(4) If the payee is within a designated foreign country, such remittances must be made through a domestic bank and any domestic bank is authorized to effect such remittances which, however, may be effected only by the payment of the dollar amount of the remittance to a domestic bank for credit to a blocked account in the name of a banking institution within such country.

(b) This section does not authorize any remittance to, or for the benefit of, a specially designated national who is not within a designated foreign country.

(c) This section does not authorize any remittance to an individual for the purpose of defraying the expenses of a person not constituting part of his household.

(d) As used in this section, the term "household" shall mean:

(1) Those individuals sharing a common dwelling as a family; or

(2) Any individual not sharing a common dwelling with others as a family.

§ 515.522 Certain remittances to United States citizens in foreign countries.

(a) Remittances by any person through any domestic bank to any individual who is a citizen of the United States within any foreign country are hereby authorized and any domestic bank is authorized to effect such remittances, on the following terms and conditions:

(1) Such remittances do not exceed \$1,000 in any one calendar month to any payee and his household and are made only for the necessary living and traveling expenses of the payee and his household, except that an additional sum not exceeding \$1,000 may be remitted once to such payee if such sum will be used for the purpose of enabling the payee or his household to return to the United States;

(2) Such remittances are not made from a blocked account other than from an account in a banking institution within the United States in the name of, or in which the beneficial interest is held by, the payee or members of his household.

(b) This section does not authorize any remittance to an individual for the purpose of defraying the expenses of a person not constituting part of his household.

(c) As used in this section, the term "household" shall mean:

(1) Those individuals sharing a common dwelling as a family; or

(2) Any individual not sharing a common dwelling with others as a family.

§ 515.523 Transactions incident to the administration of decedents' estates.

(a) The following transactions are authorized in connection with the administration of the assets in the United States of any blocked estate of a decedent:

- (1) The appointment and qualification of a personal representative;
- (2) The collection and preservation of such assets by such personal representative and the payment of all costs, fees and charges in connection therewith; and

(3) The payment by such personal representative of funeral expenses and expenses of the last illness.

(b) In addition to the authorization contained in paragraph (a) of this section, all other transactions incident to the administration of assets situated in the United States of any blocked estate of a decedent are authorized if:

(1) The decedent was not a national of a designated foreign country at the time of his death;

(2) The decedent was a citizen of the United States and a national of a designated foreign country at the time of his death solely by reason of his presence in a designated foreign country as a result of his employment by, or service with the United States Government; or

(3) The gross value of the assets within the United States does not exceed \$5,000.

(c) Any property or interest therein distributed pursuant to this section to a designated national shall be regarded for the purpose of this chapter as property in which such national has an interest and shall accordingly be subject to all the pertinent sections of this chapter. Any payment or distribution of any funds, securities or other choses in action to a designated national shall be made by deposit in a blocked account in a domestic bank or with a public officer, agency, or instrumentality designated by a court having jurisdiction of the estate. Any such deposit shall be made in one of the following ways:

(1) In the name of the national who is the ultimate beneficiary thereof;

(2) In the name of a person who is not a national of a designated foreign country in trust for the national who is the ultimate beneficiary; or

(3) Under some other designation which clearly shows the interest therein of such national.

(d) Any distribution of property authorized pursuant to this section may be made to a trustee of any testamentary trust or to the guardian of an estate of a minor or of an incompetent.

(e) This section does not authorize:

(1) Any designated national to act as personal representative or co-representative of any estate;

(2) Any designated national to represent, directly or indirectly, any person who has an interest in an estate;

(3) Any designated national to take distribution of any property as the trustee of any testamentary trust or as the guardian of an estate of a minor or of an incompetent; or

(4) Any transaction which could not be effected if no designated national had any interest in such estate.

(f) Any payment or distribution authorized by this section may be deposited in a blocked account in a domestic bank or with a public officer, agency, or instrumentality designated by the court having juris-

diction of the estate in one of the ways prescribed in paragraph (c) (1), (2) or (3) of this section, but this section does not authorize any other transaction directly or indirectly at the request, or upon the instructions of any designated national.

§ 515.524 Payment from, and transactions in the administration of certain trusts and estates.

(a) Any bank or trust company incorporated under the laws of the United States, or of any State, territory, or district of the United States, or any private bank subject to supervision and examination under the banking laws of any State of the United States, acting as trustee of any trust administered in the United States or as legal representative of any estate of an infant or incompetent administered in the United States in which trust or state one or more persons who are nationals of a designated foreign country have an interest, beneficial or otherwise, or are co-trustees or co-representatives, is hereby authorized to engage in the following transactions:

(1) Payments of distributive shares of principal or income to all persons legally entitled thereto upon the condition prescribed in paragraph (b) of this section.

(2) Other transactions arising in the administration of such trust or estate which might be engaged in if no national of a designated foreign country were a beneficiary, co-trustee or co-representative of such trust or estate upon the condition prescribed in paragraph (b) of this section.

(b) Any payment or distribution of any funds, securities or other choses in action to a national of a designated foreign country under this section shall be made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

(c) Any payment or distribution into a blocked account in a domestic bank in the name of any such national of a designated foreign country who is the ultimate beneficiary of and legally entitled to any such payment or distribution is authorized by this section, but this section does not authorize such trustee or legal representative to engage in any other transaction at the request, or upon the instructions, of any beneficiary, co-trustee or co-representative of such trust or estate or other person who is a national of any designated foreign country.

§ 515.525 Certain transfers by operation of law.

(a) The following are hereby authorized:

(1) Any transfer of any dower, curtesy, community property, or other interest of any nature whatsoever, provided that such transfer arises solely as a consequence of the existence or change of marital status;

(2) Any transfer to any person by intestate succession;

(3) Any transfer to any person as administrator, executor, or other fiduciary by reason of any testamentary disposition; and

(4) Any transfer to any person as administrator, executor, or fiduciary by reason of judicial appointment or approval in connection with any testamentary disposition or intestate succession.

(b) Except to the limited extent authorized by § 515.523 or by any other license or authorization contained in or issued pursuant to this part no transfer to any person by intestate succession and no transfer to any person as administrator, executor, or other fiduciary by reason

of any testamentary disposition, and no transfer to any person as administrator, executor, or fiduciary by reason of judicial appointment or approval in connection with any testamentary disposition or intestate succession shall be deemed to terminate the interest of the decedent in the property transferred if the decedent was a designated national.

§ 515.526 Transactions involving blocked life insurance policies.

(a) The following transactions are hereby authorized:

(1) The payment of premiums and interest on policy loans with respect to any blocked life insurance policy;

(2) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest is that of one or more of the following:

(i) A member of the armed forces of the United States or a person accompanying such forces (including personnel of the American Red Cross, and similar organizations);

(ii) An officer or employee of the United States; or

(iii) A citizen of the United States resident in a designated foreign country; and

(3) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest (other than that of a person specified in subparagraph (2) of this paragraph) is that of a beneficiary.

(b) Paragraph (a) of this section does not authorize:

(1) Any payment to the insurer from any blocked account except a blocked account of the insured or beneficiary, or

(2) Any payment by the insurer to a national of a designated foreign country unless payment is made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

(c) The application, in accordance with the provisions of the policy or the established practice of the insurer of the dividends, cash surrender value, or loan value, of any blocked life insurance policy is also hereby authorized for the purpose of:

(1) Paying premiums;

(2) Paying policy loans and interest thereon;

(3) Establishing paid-up insurance; or

(4) Accumulating such dividends or values to the credit of the policy on the books of the insurer.

(d) As used in this section:

(1) The term "blocked life insurance policy" shall mean any life insurance policy or annuity contract, or contract supplementary thereto, in which there is a blocked interest.

(2) Any interest of a national of a designated foreign country shall be deemed to be a "blocked interest."

(3) The term "servicing" shall mean the following transactions with respect to any blocked life insurance policy:

(i) The payment of premiums, the payment of loan interest, and the repayment of policy loans;

(ii) The effecting by a life insurance company or other insurer of loans to an insured;

(iii) The effecting on behalf of an insured or surrenders, conversions, modifications, and reinstatements; and

(iv) The exercise or election by an insured of nonforfeiture options, optional modes of settlement, optional disposition of dividends, and other policy options and privileges not involving payment by the insurer.

(4) The term "transfer" shall mean the change of beneficiary, or the assignment or pledge of the interest of an insured in any blocked life insurance policy subsequent to the issuance thereof.

(e) This section does not authorize any transaction with respect to any blocked life insurance policy issued by a life insurance company or other insurer which is a national of a designated foreign country or which is not doing business or effecting insurance in the United States.

§515.527 Certain transactions with respect to United States patents, trademarks, and copyrights.

(a) There are hereby authorized:

(1) The filing in the United States Patent Office of applications for letters patent and for trademarks registration;

(2) The making and filing in the United States Copyright Office of applications for registration or renewal of copyrights;

(3) The prosecution in the United States Patent Office of applications for letters patent and for trademarks registration;

(4) The receipt of letters patent or trademark registration certificates or copyright registration or renewal certificates granted pursuant to any such applications in which any designated national has at any time on or since the "effective date" had any interest.

(b) This section further authorizes, subject to the terms and conditions prescribed in paragraphs (c) and (d) of this section, the execution and recording of any instrument recordable in the United States Patent Office or the United States Copyright Office which affects title to or grants any interest in, including licenses under, any United States letters patent, trademark registration, copyright or renewal thereof, or application therefor, in which a designated national, who is such a national solely by reason of his relationship to an occupied area, has at any time on or since the "effective date" had any interest, or which constitutes or evidences a transaction made by, or on behalf of, or pursuant to the direction of or with such a designated national, or if any of the parties to such instrument is such a designated national.

(c) Any such instrument the recording or the execution and recording of which is authorized by paragraph (b) of this section shall be recorded in the United States Patent Office or in the United States Copyright Office within ninety days of the date of execution thereof or ninety days from the "effective date" whichever is the longer period, or within such further time as may be allowed by the Secretary of the Treasury. The person presenting such instrument for recording shall file therewith in the United States Patent Office or United States Copyright Office a statement that such instrument is being recorded in accordance with the provisions of this section.

(d) Any such instrument the recording or the execution and recording of which is authorized by paragraph (b) of this section may be set aside by the Secretary of the Treasury at any time within a period of three years from the date of recording except that the Secretary of the Treasury may in his discretion reduce such period of time

with respect to any instrument after the recording thereof, and further, the patents, trademarks, interests, applications or rights thereunder so transferred may be vested by the Secretary of the Treasury.

(e) This section also authorizes the payment from blocked accounts or otherwise, of fees, currently due to the United States Government in connection with any transactions authorized by this section.

(f) This section further authorizes the payment from blocked accounts or otherwise of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States in connection with the transactions referred to in paragraphs (a), (b), and (e) of this section, provided that such payment shall not exceed (1) \$100 for the preparation, filing, and prosecution of any letters patent; or (2) \$50 for the preparation, filing and prosecution of any application for a trademark registration; or (3) \$25 for the securing and registration of any copyright; or (4) \$35 for the preparation and filing of any amendment to a pending application for letters patent or for a trademark registration.

(g) This section also authorizes the payment of a nominal consideration not exceeding one dollar, to any party to an instrument executed or recorded hereunder with respect to the property affected by such instrument, as long as such instrument is subject to being set aside in accordance with paragraph (d) of this section.

§ 515.528 Certain transactions with respect to blocked foreign patents, trademarks and copyrights authorized.

(a) The following transactions by any person who is not a designated national are hereby authorized:

(1) The filing and prosecution of any application for a blocked foreign patent, trademark or copyright, or for the renewal thereof;

(2) The receipt of any blocked foreign patent, trademark or copyright;

(3) The filing and prosecution of opposition or infringement proceedings with respect to any blocked foreign patent, trademark, or copyright, and the prosecution of a defense to any such proceedings;

(4) The payment of fees currently due to the government of any foreign country, either directly or through an attorney or representative, in connection with any of the transactions authorized by subparagraphs (1), (2), and (3) of this paragraph or for the maintenance of any blocked foreign patent, trademark or copyright; and

(5) The payment of reasonable and customary fees currently due to attorneys or representatives in any foreign country incurred in connection with any of the transactions authorized by subparagraphs (1), (2), (3), or (4) of this paragraph.

(b) Payments effected pursuant to the terms of paragraph (a) (4) and (5) of this section may not be made from any blocked account.

(c) As used in this section the term "blocked foreign patent, trademark, or copyright" shall mean any patent, petty patent, design patent, trademark or copyright issued by any foreign country in which a designated foreign country or national thereof has an interest, including any patent, petty patent, design patent, trademark, or copyright issued by a designated foreign country.

§ 515.529 Powers of attorney.

(a) No power of attorney, whether granted before or after the "effective date" shall be invalid by reason of any of the provisions of this

part with respect to any transaction licensed by or pursuant to the provisions of this part.

(b) This section does not authorize any transaction pursuant to a power of attorney if such transaction is prohibited by § 515.201 and is not otherwise licensed or authorized by or pursuant to this part.

(c) This section does not authorize the creation of any power of attorney in favor of any person outside of the United States or the exportation from the United States of any power of attorney.

§ 515.530 Exportation of powers of attorney or instructions relating to certain types of transactions.

(a) The exportation to any foreign country of powers of attorney or other instruments executed or issued by any person within the United States who is not a national of a designated foreign country, which are limited to authorizations or instructions to effect transactions incident to the following, are hereby authorized upon the condition prescribed in paragraph (b) of this section:

(1) The representation of the interest of such person in a decedent's estate which is being administered in a designated foreign country and the collection of the distributive share of such person in such estate;

(2) The maintenance, preservation, supervision or management of any property located in a designated foreign country in which such person has an interest; and

(3) The conveyance, transfer, release, sale or other disposition of any property specified in subparagraph (1) of this paragraph or any real estate or tangible personal property if the value thereof does not exceed the sum of \$5,000 or its equivalent in foreign currency.

(b) No instrument which authorizes the conveyance, transfer, release, sale or other disposition of any property may be exported under this section unless it contains an express stipulation that such authority may not be exercised if the value of such property exceeds the sum of \$5,000 or the equivalent thereof in foreign currency.

(c) As used in this section, the term "tangible personal property" shall not include cash, bullion, deposits, credits, securities, patents, trademarks, or copyrights.

§ 515.531 Payment of certain checks and drafts.

(a) Any banking institution within the United States is hereby authorized to make payments from blocked accounts with such banking institution:

(1) Of checks and drafts drawn or issued prior to the "effective date" provided:

(i) The amount involved in any one payment, acceptance, or debit does not exceed \$500; or

(ii) The check or draft was within the United States in process of collection by a domestic bank on or prior to the "effective date."

(b) This section does not authorize any payment to a designated foreign country or any designated national thereof except payments into a blocked account in a domestic bank, unless such designated national is otherwise licensed to receive such payment.

(c) The authorization contained in this section shall expire at the close of business on August 8, 1963.

§ 515.532 Completion of certain securities transactions.

(a) Banking institutions within the United States are hereby authorized to complete, on or before July 12, 1963 purchases and sales made prior to the "effective date" of securities purchased or sold for the account of a designated foreign country or any designated national thereof provided the following terms and conditions are complied with, respectively:

(1) The proceeds of such sale are credited to a blocked account in a banking institution in the name of the person for whose account the sale was made; and

(2) The securities so purchased are held in a blocked account in a banking institution in the name of the person for whose account the purchase was made.

(b) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a subaccount thereof, to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

§ 515.533 Transactions incident to exportations to designated countries.

(a) All transactions ordinarily incident to the exportation of goods, wares and merchandise from the United States to any person within a designated foreign country are hereby authorized, provided the following terms and conditions are complied with:

(1) The exportation is licensed or otherwise authorized by the Department of Commerce under the provisions of the Export Control Act of 1949, as amended (sec. 3, 62 Stat. 7, sec. 4, 76 Stat. 127, 50 U.S.C., App. Supp. 2023); and

(2) Banking institution within the United States, prior to issuing, confirming or advising letters of credit, or accepting or paying drafts drawn, or reimbursing themselves for payments made, under letters of credit, or making any other payment or transfer of credit, in connection with any exportation pursuant to this section, or engaging in any other transaction herein authorized shall satisfy themselves that:

(i) Each such transaction is incident to a bona fide exportation and is customary in the normal course of business, and that the value of such exportation reasonably corresponds with the sums of money involved in financing such transaction; and (ii) such exportation is made pursuant to all the terms and conditions of this section.

(b) This section does not authorize:

(1) The financing of any transaction from any blocked account;

(2) Any transaction involving, directly or indirectly, property in which any designated national, other than a person located in the country to which the exportation is consigned, has an interest, or has had an interest since the "effective date."

§ 515.534 [Reserved]

§ 515.535 Exchange of certain securities.

(a) Subject to the limitations and conditions of paragraph (b) of this section and notwithstanding § 515.202 of this part, any banking institution within the United States is authorized to engage in the following transactions with respect to securities listed on a national securities exchange, including the withdrawal of such securities from blocked accounts:

(1) Exchange of certificates necessitated by reason of changes in corporate name, par value or capitalization,

- (2) Exchanges of temporary for permanent certificates,
- (3) Exchanges or deposits under plans of reorganization,
- (4) Exchanges under refunding plans, or
- (5) Exchanges pursuant to conversion privileges accruing to securities held.

(b) This section does not authorize the following transactions:

(1) Any exchange of securities unless the new securities and other proceeds, if any, received are deposited in the blocked account in which the original securities were held immediately prior to the exchange.

(2) Any exchange of securities registered in the name of any designated national, unless the new securities received are registered in the same name in which the securities exchanged were registered prior to the exchange.

(3) Any exchange of securities issued by a person engaged in the business of offering, buying, selling, or otherwise dealing, or trading in securities, or evidences thereof, issued by another person.

(4) Any transaction with respect to any security by an issuer or other obligor who is a designated national.

§ 515.536 Certain transactions with respect to merchandise affected by § 515.204.

(a) With respect to merchandise the importation of which is prohibited by § 515.204, all Customs transactions are authorized except the following:

(1) Entry for consumption (including any appraisement entry, any entry of goods imported in the mails, regardless of value, and any other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone.

(b) Paragraph (a) of this section is intended solely to allow certain restricted disposition of merchandise which is imported without proper authorization. Paragraph (a) of this section does not authorize the purchase or importation of any merchandise.

(c) The purchase outside the United States for importation into the United States of nickel-bearing materials presumptively subject to § 515.204 and the importation of such merchandise into the United States (including transactions listed in paragraph (a) of this section) are authorized if there is presented to the collector of customs in connection with such importation the original of an appropriate certificate of origin as defined in paragraph (d) of this section and provided that the merchandise was shipped to the United States directly, or on a through bill of lading, from the country issuing the appropriate certificate of origin.

(d) A certificate of origin is appropriate for the purposes of this section only if

(1) It is a certificate of origin the availability of which for Cuban Assets Control purposes has been announced in the Federal Register by the Office of Foreign Assets Control; and

(2) It bears a statement by the issuing agency referring to the Cuban Assets Control Regulations and stating that the certificate has been issued under procedures agreed upon with the U.S. Government.

[30 F.R. 15371, Dec. 14, 1965]

§§ 515.537-515.539 [Reserved]

§ 515.540 **Passengers' baggage.**

The importation of goods otherwise prohibited under this part which are brought into the United States as baggage by any person arriving in the United States other than a citizen or resident of the United States is hereby licensed, notwithstanding the provisions of § 515.808 of this part, provided that such goods are not in commercial quantities and are not imported for resale.

§ 515.541 **Certain transactions by nonbanking organizations in foreign countries owned or controlled by persons in the United States.**

(a) Except as provided in paragraphs (b), (c), (d), and (e) of this section, all transactions incidental to the conduct of business activities abroad engaged in by any non-banking association, corporation, or other organization, which is organized and doing business under the laws of any foreign country in the authorized trade territory are hereby authorized.

(b) This section does not authorize any transaction involving United States dollar accounts or any other property subject to the jurisdiction of the United States.

(c) This section does not authorize any transaction involving the purchase or sale or other transfer of any merchandise of United States origin or the obtaining of a credit in connection therewith.

(d) This section does not authorize the transportation aboard any vessel which is owned or controlled by any organization described in paragraph (a) of this section of any merchandise from a designated foreign country to any country or from any country directly or indirectly to a designated foreign country.

(e) This section does not authorize any person subject to the jurisdiction of the United States other than an organization described in paragraph (a) of this section to engage in or participate in or be involved in any transaction. For the purpose of this section only, no person shall be deemed to be engaged in or participating in or involved in a transaction solely because of the fact that he has a financial interest in any organization described in paragraph (a) of this section.

§ 515.542 **Communications.**

All transactions of common carriers incidental to the receipt or transmission of mail and telecommunications with a designated foreign country are hereby authorized.

§ 515.543 **Proof of origin.**

Specific licenses for importation of goods of Cuban origin are generally not issued unless the applicant submits satisfactory documentary proof of the location of the goods outside Cuba prior to July 8, 1963 and of the absence of any Cuban interest in the goods at all times on or since that date. Since the type of document which would constitute satisfactory proof varies depending upon the facts of the particular case, it is not possible to state in advance the type of documents required. However, it has been found that affidavits, statements,

invoices, and other documents prepared by manufacturers, processors, sellers or shippers cannot be relied on and are therefore not by themselves accepted by the Office of Foreign Assets Control as satisfactory proof of origin. Independent corroborating documentary evidence, such as insurance documents, bills of lading, etc., may be accepted as satisfactory proof.

[39 FR 25317, July 10, 1974]

§ 515.544 Gifts of Cuban origin goods.

(a) Except as stated in paragraph (b) of this section, specific licenses are not issued for the importation of Cuban-origin goods sent as gifts to persons in the United States or acquired abroad as gifts by persons entering the United States. However, licenses are issued upon request for the return of such goods to the donors in countries other than Cuba.

(b) Specific licenses are issued for the importation directly from Cuba (1) of goods which are claimed by the importer to have been sent as a bona fide gift and (2) of goods which are imported by a person entering the U.S., which are claimed to have been acquired in Cuba as a bona fide gift, subject to the conditions that:

(i) The goods are of small value, and

(ii) There is no reason to believe that there is, or has been since July 8, 1963, any direct or indirect financial or commercial benefit to Cuba or nationals thereof from the importation.

[39 FR 25317, July 10, 1974; 39 FR 28434, Aug. 7, 1974]

§ 515.545 Books and other publications, films, phonograph records, tapes, photographs, microfilm, microfiche and posters of Cuban origin.

(a) *Imports for educational and research purposes.* (1) Specific licenses are issued for the purchase and importation of Cuban-origin books and other publications, films, phonograph records, tapes, photographs, microfilm, microfiche and posters by universities, libraries, research and scientific institutions without restriction as to method of payment, or on an exchange basis, provided such materials are for specific educational or research programs of such institutions which are approved by the Librarian of Congress or the National Science Foundation.

(2) Specific licenses are issued to scholars holding U.S. passports validated for travel to Cuba authorizing: Payment of expenses for travel to and from, and maintenance within, Cuba for the purpose of study and research; and, the acquisition in Cuba by such scholars and importation into the U.S., without restriction as to manner of payment, of Cuban-origin books and other publications, films, phonograph records, tapes, photographs, microfilm, microfiche and posters necessary to their research, provided that a validated U.S. passport is presented to Customs at the time of importation.

(b) *Imports for commercial purposes.* Specific licenses are issued for the importation for commercial purposes of any Cuban-origin books or other publications, films, phonograph records, tapes, photographs, microfilm, microfiche and posters provided that such payment for such materials is made by the licensee by deposit into a blocked account in a domestic bank in the name of the Cuban seller; that the bank confirms to the Office of Foreign Assets Control that the account has been designated as a blocked account on its books; and that reports of any such

imports and deposits are made by the licensee. Reports are required to contain the following information:

- (1) Port of importation and of exportation,
- (2) Name and address of importer of record,
- (3) Name and address of buyer,
- (4) Type of materials, i.e. books, magazines, newspapers, films, etc.,
- (5) Quantity and value of materials imported,
- (6) Statement of all sales of materials imported, showing the number sold, the amount deposited in blocked accounts and the name and address of the domestic banks where the accounts are located.

(c) *Imports of Cuban publications, etc. as bona-fide gifts.* See § 515.544(b).

[39 FR 25318, July 10, 1974; 39 FR 29182, Aug. 14, 1974]

§ 515.546 News material from Cuba.

(a) *Imports by newsgathering agencies.* Specific licenses are issued for the purchase and importation of Cuban-origin newspapers, magazines, photographs, films, tapes, and other news material or copies thereof by newsgathering agencies in the United States without restriction as to method of payment, provided such materials are imported for domestic news publication or news broadcast dissemination.

(b) *News material acquired in Cuba by journalists and news correspondents.* (1) Specific licenses are issued to journalists and news correspondents holding U.S. passports validated for travel to Cuba authorizing (i) payment of expenses for travel to and from, and maintenance within Cuba for the purpose of gathering and transmitting news to the United States; and (ii) the acquisition in Cuba for transmission to and importation into the United States of newspapers, magazines, photographs, films, tapes and other news material, or copies thereof, necessary for their journalistic assignments.

(2) A condition of the license is that a United States passport validated for travel to Cuba must be presented to Customs at the time of importation.

[39 FR 25318, July 10, 1974]

§ 515.547 Research samples.

Specific licenses are issued for importation of Cuban-origin commodities for bona-fide research purposes in sample quantities only.

[39 FR 25318, July 10, 1974]

§ 515.548 Services rendered by Cuba to United States aircraft.

Specific licenses are issued for payment to Cuba of charges for services rendered by Cuba in connection with overflights of Cuba or emergency landings in Cuba, of private, commercial or government-owned United States aircraft, *Provided*, That payment is made to Cuba through the Department of State and not through a commercial bank.

[39 FR 25318, July 10, 1974]

§ 515.549 Bank accounts and other property of non-Cuban citizens who were in Cuba on or after July 8, 1963.

(a) *Citizens of foreign countries.* Specific licenses are issued unblocking the accounts and other property of non-Cuban citizens who have left Cuba, provided that they submit evidence satisfactorily demonstrating that they have established residence in a foreign country in the authorized trade territory.

(b) *Decedents who died in Cuba on or after July 8, 1963.* Specific licenses are issued authorizing the administration of the estates of non-Cuban decedents who died in Cuba, provided that any distribution to a blocked national of Cuban is made by deposit in a blocked account in a domestic bank in the name of the blocked national.

[39 FR 25318, July 10, 1974]

§ 515.550 Bank accounts in the name of a blocked Cuban decedent; payment to a non-blocked surviving spouse.

Specific licenses are issued unblocking up to 50 percent of an account of a blocked Cuban decedent where a non-blocked surviving spouse of such decedent claims beneficial ownership interest in a portion or all of a bank account held in the name of the decedent. This policy, which is an exception to the normal requirement of independent documentary proof of beneficial ownership, is based on the presumption of the existence of such interest in the non-blocked spouse on or since July 8, 1963, arising under the Cuban community property law.

[39 FR 25318, July 10, 1974]

§ 515.551 Joint bank accounts.

(a) Specific licenses are issued unblocking a portion of or all of a joint bank account blocked by reason of the fact that one or more of the persons in whose names the account is held is a blocked national, where a non-blocked applicant claims beneficial ownership, as follows:

(1) *Joint bank account, without survivorship provisions.* Specific licenses are issued unblocking only that amount with respect to which the applicant is able to prove beneficial ownership by documentary evidence independent of his assertions of interest.

(2) *Joint bank account, with survivorship provision.* Specific licenses are issued unblocking an amount equivalent to that portion of the total amount to which the applicant would be entitled if the total were divided evenly among the persons in whose names the account is held (e.g. 50 percent where there are two names; 33 $\frac{1}{3}$ percent where there are three names). Such licenses generally are issued on the basis of applicant's assertions of beneficial ownership interest without the requirement of independent evidence.

(3) *Joint bank account in the names of a husband and wife, with survivorship provision.* Specific licenses are issued unblocking portions of such accounts blocked by reason of the residence of one spouse in Cuba in favor of the non-blocked spouse under the policy stated in paragraph (c) (2) of this section. However, if 50 percent of the account has been unblocked under that policy, and the spouse who is the blocked Cuban national subsequently dies, a license unblocking one-half of the blocked balance is not issued to the surviving spouse under the policy relating to community property stated in § 515.550. A license would be issued for the unblocking of an additional amount only to the extent that the surviving spouse is able to establish by independent documentary evidence that it is his or her separate property, i.e. owned independently prior to the marriage and thus not part of the community property.

[39 FR 25318, July 10, 1974]

§ 515.552 Proceeds of insurance policies.

(a) Specific licenses are issued authorizing payment of a portion of the proceeds of a blocked life insurance policy issued on the life

of a blocked Cuban national who died in Cuba after July 8, 1963, to non-blocked beneficiaries as follows:

(1) Payment may be licensed of a portion equal to the proportionate shares due the beneficiaries after deduction of an amount equal to the cash surrender value of the policy on the date of the insured's death, i.e. the value of the blocked insured's interest, subject to the condition that the amount deducted is deposited in a blocked account in a domestic bank in the name of the estate of the insured.

(2) As an alternative procedure at the option of the applicant, payment may be licensed of the total amount of the proceeds into a blocked account in a domestic bank in the names of the beneficiaries, subject to the condition that the account is designated as blocked by reason of the interest of the deceased insured in the policy since July 8, 1963. Licenses may subsequently be issued authorizing payments from such blocked account to non-blocked beneficiaries provided that the balance remains equal to the cash surrender value of the policy on the date of the insured's death, and accrued interest.

(3) Where a non-blocked surviving spouse of the insured is a beneficiary, payments to such spouse are licensed pursuant to the procedures in paragraph (a) (1) and (2) of this section. In addition, licenses are issued authorizing payment of up to 50 percent of the cash surrender value under the policy stated in § 15.550.

(b) Where a blocked life insurance policy on the life of a blocked Cuban national who died in Cuba after July 8, 1963, provides for payment to the estate of the insured, licenses are not issued for payment except to a blocked account in a domestic bank in the name of the estate of the deceased insured.

[39 FR 25319, July 10, 1974; 39 FR 29182, Aug. 14, 1974]

§ 515.553 Bank accounts of official representatives in Cuba of foreign governments.

Specific licenses are issued authorizing payments from accounts of official representatives in Cuba of foreign governments for transactions which are not inconsistent with the purposes of any of the regulations in this chapter.

[39 FR 25319, July 10, 1974]

§ 515.554 Transfers of abandoned property under State laws.

(a) Except as stated in paragraph (b) of this section, specific licenses are not issued authorizing the transfer of blocked property to State agencies under State laws governing abandoned property.

(b) Specific licenses are issued authorizing the transfer of blocked property pursuant to the laws of the State governing abandoned property to the appropriate State agency provided that the State's laws are custodial in nature, i.e., there is no permanent transfer of beneficial interest to the State. Licenses require the property to be held by the State in accounts which are identified as blocked under the regulations. A separate index of these blocked assets is required to be maintained by the State agency.

[39 FR 25319, July 10, 1974]

§ 515.555 Assets of Cuban firms wholly or substantially owned by U.S. citizens.

(a) Specific licenses are issued to applicants requesting the unblocking of their stock in Cuban corporations if:

(1) The corporation was wholly or substantially owned by United States citizens on July 8, 1963;

(2) The assets are in the United States and either;

(3) The applicant is a stockholder who was a United States citizen on July 8, 1963 and owned the stock interests on that date; or,

(4) The applicant is a non-blocked person who acquired such stock interest after July 8, 1963 from a person specified in paragraph (a) (3) of this section.

(b) The issuance of licenses is conditioned on the applicant's furnishing the following information:

(1) Detailed information as to the status of all debts and other obligations of the Cuban corporation, specifying the citizenship and residence of each creditor as of July 8, 1963, and as of the date of filing of the application;

(2) Current status of the Cuban corporation, e.g., liquidated, nationalized, inoperative, etc.;

(3) A detailed description of all the corporation's assets, wherever located;

(4) A list of all officers, directors, and stockholders giving the citizenship and the residence of each such person as of July 8, 1963; and

(5) Satisfactory proof that such stock was owned by U.S. citizens as of July 8, 1963. Such proof may consist of sworn statements by the persons in question attesting to their citizenship. The Office of Foreign Assets Control reserves the right to require additional proof of citizenship.

[39 FR 25319, July 10, 1974]

§ 515.556 Accounts of Cuban Citizens Outside Cuba.

Section 515.521 authorizes the release of \$100 per month for living expenses from blocked accounts of Cuban citizens in any country in the authorized trade territory who resided in Cuba on or after July 8, 1963. This amount may be increased if the applicant is able to establish that such increase is reasonable and necessary.

[39 FR 29183, Aug. 14, 1974]

§ 515.557 Accounts of Cuban partnerships.

Specific licenses are issued unblocking partnerships established under the laws of Cuba as follows:

(a) Where all of the general partners and limited partners, if any, have emigrated from Cuba and have established residence in the United States or in a country in the authorized trade territory, specific licenses are issued unblocking the assets of the partnership after deducting the total debt due creditors wherever located.

(b) Where one or more partners, whether general or limited, is still in Cuba (or elsewhere but still blocked), specific licenses are issued unblocking only the net pro-rata shares of those partners who are resident in the United States or in a country in the authorized trade territory after deducting the total debt due creditors wherever located.

(c) The issuance of licenses is conditioned on the applicant's furnishing the following information:

(1) Detailed information as to the status of all debts and other obligations of the blocked partnership, specifying the citizenship and

residence of each creditor as of July 8, 1963, and as of the date of the application;

(2) Current status of the Cuban partnership, e.g., liquidated, nationalized, inoperative, etc.;

(3) A detailed description of all the partnership's assets, wherever located; and,

(4) A list of all partners, indicating whether they are general, limited, etc., and giving their citizenship and residence as of July 8, 1963, and as of the date of filing of the application.

[39 FR 25319, July 10, 1974]

§ 515.558 Accounts of Cuban sole proprietorships.

Specific licenses are issued unblocking sole proprietorships established under the laws of Cuba if the proprietor has emigrated from Cuba and established residence in the United States or a country in the authorized trade territory.

[39 FR 25319, July 10, 1974]

SUBPART F—REPORTS

§ 515.601 Records.

Every person engaging in any transaction subject to the provisions of this part shall keep a full and accurate record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least two years after the date of such transaction.

§ 515.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required by the Secretary of the Treasury or any person acting under his direction or authorization complete information relative to any transaction subject to the provisions of this part or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect. The Secretary of the Treasury or any person acting under his direction may require that such reports include the production of any books of account, contracts, letters or other papers, connected with any such transaction or property, in the custody or control of the persons required to make such reports. Reports with respect to transactions may be required either before or after such transactions are completed. The Secretary of the Treasury may, through any person or agency, investigate any such transaction or property or any violation of the provisions of this part regardless of whether any report has been required or filed in connection therewith.

SUBPART G—PENALTIES

§ 515.701 Penalties.

(a) Attention is directed to section 5(b) of the Trading With the Enemy Act, as amended, which provides in part:

Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000 or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like

fine, imprisonment, or both. As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

This section of the Trading With the Enemy Act, as amended, is applicable to violations of any provision of this chapter and to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this chapter or otherwise under section 5(b) of the Trading With the Enemy Act, as amended.

(b) Attention is also directed to 18 U.S.C. 1001 which provides:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

SUBPART H—PROCEDURES

§ 515.801 Licensing.

(a) *General licenses.* General licenses have been issued authorizing under appropriate terms and conditions, many types of transactions which are subject to the prohibitions contained in Subpart B. All such licenses are set forth in Subpart E. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of certain general licenses are required to file reports and statements in accordance with the instructions specified in the licenses.

(b) *Specific licenses*—(1) *General course of procedure.* Transactions subject to the prohibitions contained in Subpart B of this part which are not authorized by general license may be effected only under specific license. The specific licensing activities of Foreign Assets Control are performed by the central organization and the Federal Reserve Bank of New York. When an unusual problem is presented, the proposed action is cleared with the Director of the Office of Foreign Assets Control or such person as he may designate.

(2) *Applications for specific licenses.* Applications for specific licenses to engage in any transaction prohibited by or pursuant to this part are to be filed in duplicate on Form TFAC-5 with the Federal Reserve Bank of New York. Any person having an interest in a transaction or proposed transaction may file an application for a license authorizing the effecting of such transaction, and there is no requirement that any other person having an interest in such transaction shall or should join in making or filing such application.

(3) *Information to be supplied.* Applicants must supply all information specified by the respective forms and instructions. Such documents as may be relevant shall be attached to each application as a part of such application except that documents previously filed with Office of Foreign Assets Control may, where appropriate, be incorporated by reference. Applicants may be required to furnish such further information as is deemed necessary to a proper determination by the Control. If an applicant or other party in interest desires to present additional information or discuss or argue the application, he may do so at any time before or after decision. Arrangements for oral presentation should be made with the Control.

(4) *Effect of denial.* The denial of a license does not preclude the reopening of an application or the filing of a further application. The applicant or any other party in interest may at any time request explanation of the reasons for a denial by correspondence or personal interview.

(5) *Reports under specific licenses.* As a condition upon the issuance of any license, the licensee may be required to file reports with respect to the transaction covered by the license, in such form and at such times and places as may be prescribed in the license or otherwise.

(6) *Issuance of license.* Licenses will be issued by the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury or by the Federal Reserve Bank of New York, acting in accordance with such regulations, rulings and instructions as the Secretary of the Treasury or the Office of Foreign Assets Control may from time to time prescribe, in such cases or classes of cases as the Secretary of the Treasury or the Office of Foreign Assets Control may determine, or licenses may be issued by the Secretary of the Treasury acting directly or through any person, agency, or instrumentality designated by him.

§ 515.802 Unblocking.

Any interested person desiring the unblocking of accounts or other property on the ground that no person having an interest in the property is a designated national may file such an application. Such application shall be filed in the manner provided in § 515.801(b) and shall contain full information in support of the administrative action requested.

The applicant is entitled to be heard on the application. If the applicant desires a hearing, arrangements should be made with the Office of Foreign Assets Control.

§ 515.803 Decision.

The Office of Foreign Assets Control of the Federal Reserve Bank of New York will advise each applicant of the decision respecting applications filed by him. The decision of the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury with respect to an application shall constitute final agency actions.

[32 F.R. 10847, July 25, 1967]

§ 515.804 Records and reporting.

(a) Records are required to be kept by every person engaging in any transaction subject to the provisions of this chapter as provided in § 515.601.

(b) Reports may be required from any person with respect to any transaction subject to the provisions of this chapter or relative to any property in which any foreign country or any national thereof has an interest, as provided in § 514.602.

[32 F.R. 10847, July 25, 1967]

§ 515.805 Amendment, modification, or revocation.

The provisions of this part and any rulings, licenses, authorizations, instructions, orders, or forms issued thereunder may be amended, modified, or revoked at any time.

§ 515.806 Rule making.

(a) All rules and other public documents are issued by the Secretary of the Treasury upon recommendation of the Director of the Office of

Foreign Assets Control. Except to the extent that there is involved any military, naval, or foreign affairs function of the United States or any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts and except when interpretative rules, general statements of policy or rules of agency organization, practice, or procedure are involved or when notice and public procedure are impracticable, unnecessary or contrary to the public interest, interested persons will be afforded an opportunity to participate in rule making through submission of written data, views, or argument, with oral presentation in the discretion of the Director. In general, rule making by the Office of Foreign Assets Control involves foreign affairs functions of the United States. Wherever possible, however, it is the practice to hold informal consultations with interested groups or persons before the issuance of any rule or other public document.

(b) Any interested person may petition the Director of the Office of Foreign Assets Control in writing for the issuance, amendment or repeal of any rule.

§ 515.807 Delegation by the Secretary of the Treasury.

Any action under § 515.201 which the Secretary of the Treasury is authorized to take pursuant to Proclamation 3447 or the Trading With the Enemy Act may be taken by the Director, Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

§ 515.808 Customs procedures; merchandise specified in § 515.204.

(a) With respect to merchandise specified in § 515.204 (including nickelbearing materials presumptively subject thereto) whether or not such merchandise has been imported into the United States, collectors of customs shall not accept or allow any:

(1) Entry for consumption (including any appraisement entry, any entry of goods imported in the mails, regardless of value, and any other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone, unless either:

(i) The merchandise was imported prior to 12:01 a.m., February 7, 1962, or

(ii) A specific license pursuant to this part is presented, or

(iii) Instructions from the Office of Foreign Assets Control, either directly or through the Federal Reserve Bank of New York, authorizing the transaction are received, or

(iv) The original of an appropriate certificate of origin as defined in § 515.536(d) is presented.

(b) Whenever a specific license is presented to a collector of customs in accordance with this section, one additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be filed with the collector of customs at the port where the transaction is to take place. Each copy of any such entry, withdrawal or other appropriate document, including the additional copy, shall bear plainly on its face the number of the license

pursuant to which it is filed. The original copy of the specific license shall be presented to the collector in respect of each such transaction and shall bear a notation in ink by the licensee or person presenting the license showing the description, quantity and value of the merchandise to be entered, withdrawn or otherwise dealt with. This notation should be so placed and so written that there will exist no possibility of confusing it with anything placed on the license at the time of its issuance. If the license in fact authorizes the entry, withdrawal or other transaction with regard to the merchandise the collector, or other authorized customs employee, shall verify the notation by signing or initialing it after first assuring himself that it accurately describes the merchandise it purports to represent. The license shall thereafter be returned to the person presenting it and the additional copy of the entry, withdrawal or other appropriate document shall be forwarded by the collector to the Foreign Assets Control.

(c) (1) Whenever the original of an appropriate certificate of origin as defined in § 515.536(d) is presented to a collector of customs in accordance with this section, an additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be filed with the collector of customs at the port where the transaction is to take place. Each copy of the entry, withdrawal, or other appropriate document, including the additional copy, shall bear plainly on its face the following statement: "This document is presented under the provisions of § 515.536(c) of the Cuban Assets Control Regulations." The original of the certificate of origin shall not be returned to the person presenting it. It shall be securely attached to the additional copy required by this subparagraph and shall be forwarded by the collector to the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220. Collectors may forward such documents weekly or more often if the volume warrants.

(2) If the original of an appropriate certificate of origin is properly presented to a collector of customs with respect to a transaction which is the first of a series of transactions which may be allowed in connection therewith under subdivision (iv) of paragraph (a) (6) of this section (as, for example, where merchandise has been entered in a bonded warehouse and an appropriate certificate of origin is presented which relates to all of the merchandise entered therein but the importer desires to withdraw only part of the merchandise in the first transaction), the collector shall so note on the original of the appropriate certificate of origin and return it to the importer. In addition, the collector shall endorse his pertinent records so as to record what merchandise is covered by the appropriate certificate of origin presented. The collector may thereafter allow subsequent authorized transactions on presentation of the certificate of origin. The collector shall, with respect to each such transaction, demand an additional copy of each withdrawal or other appropriate document, which copy shall be promptly forwarded by the collector to the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220, with an endorsement thereon reading:

This document has been accepted pursuant to § 515.808(c) (2) of the Cuban Assets Control Regulations. Appropriate certificate of origin No. _____ from (country).

When the final transaction has been effected under the certificate of origin, the original shall be taken up and attached to the entry and forwarded as in this paragraph.

(d) Whenever a person shall present an entry, withdrawal or other appropriate document affected by this section and shall assert that no specific Foreign Assets Control license or appropriate certificate of origin as defined in § 515.536(d) is required in connection therewith, the collector of customs shall withhold action thereon and shall advise such person to communicate directly with the Federal Reserve Bank of New York to request that instructions be issued to the collector to authorize him to take action with regard thereto.

[30 F.R. 15371, Dec. 14, 1965]

§ 515.809 Rules governing availability of information.

(a) The records of the Office of Foreign Assets Control required by 5 U.S.C. 552 to make available to the public shall be made available in accordance with the definitions, procedures, payment of fees, and other provisions of the regulations on the Disclosure of Records of the Office of the Secretary and of other bureaus and offices of the Department issued under 5 U.S.C. 552 and published as Part 1 of this Title 31 of the Code of Federal Regulations, 32 F.R. 9562, July 1, 1967.

(b) Form TFAC-5 and any other form used in connection with the Cuban Assets Control Regulations may be obtained in person from or by writing to the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220, or the Foreign Assets Control Division, Federal Reserve Bank of New York, 33 Liberty Street, New York, N.Y. 10045.

[32 F.R. 10847, July 25, 1967]

H. Part 520—Foreign Funds Control Regulations

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- 520.806 Rulemaking.
- 520.807 Delegation by the Secretary of the Treasury.
- 520.809 Rules governing availability of information.

AUTHORITY: The provisions of this Part 520 issued under sec. 5, 40 Stat. 415, as amended; 50 U.S.C. App. 5; E.O. 8389, Apr. 10, 1940, 5 F.R. 1400, as amended by E.O. 8785, June 14, 1941, 6 F.R. 2897, E.O. 8832, July 26, 1941, 6 F.R. 3715, E.O. 8963, Dec. 9, 1941, 6 F.R. 6348, E.O. 8998, Dec. 26, 1941, 6 F.R. 6785, E.O. 9193, July 6, 1942, 7 F.R. 5205; 3 CFR, 1943 Cum. Supp.; E.O. 10348, Apr. 26, 1952, 17 F.R. 3769, 3 CFR, 1949-1953 Comp.; E.O. 11281, May 13, 1966, 31 F.R. 7215, 3 CFR 1966 Supp., unless otherwise noted.

SOURCE: The provisions of this Part 520 appear at 31 F.R. 7333, May 20, 1966; 31 F.R. 7625, May 27, 1966, unless otherwise noted.

SUBPART A—REGULATIONS

§ 520.01 Definitions.

(a) The term "order" shall refer to Executive Order 8389 of April 10, 1940 (3 CFR, 1943 Cum. Supp.), as amended.

(b) The term "regulations" shall refer to the regulations in this part.

(c) The terms "property" and "property interest" or "property interests" shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, any debts, indebtedness or obligations, financial securities commonly dealt in by bankers, brokers, and investment houses, notes, debentures, stocks, bonds, coupons, bankers' acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks, copyrights, contracts or licenses affecting or involving patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, et cetera.

(d) Safe deposit boxes shall be deemed to be in the "custody" not only of all persons having access thereto but also of the lessors of such boxes whether or not such lessors have access to such boxes. The foregoing shall not in any way be regarded as a limitation upon the meaning of the term "custody."

(e) For the meaning of other terms reference should be made to the definitions contained in the order. In interpreting rulings, licenses, instructions, etc., issued pursuant to the order and regulations, particular attention is directed to the provisions of General Ruling No. 4 (§ 520.204), as from time to time hereafter amended.

§ 520.04 Relation of this Part 520 to other laws and regulations.

(a) This Part 520 is independent of Parts 500, 505, and 515 of this chapter. The prohibitions contained in Part 520 are in addition to the prohibitions contained in Parts 500, 505, and 515.

(b) The regulations in Part 520 and any rulings, licenses or instructions issued hereunder shall not be deemed to authorize any transaction prohibited by reason of regulations in any other part or pursuant

to any other order, proclamation, or regulation, other than Executive Order 8389, as amended.

(c) No license or authorization contained in or issued pursuant to regulations in any other part shall be deemed to authorize any transaction prohibited by Executive Order 8389, as amended, nor shall any license or authorization issued pursuant to any other provision of law be deemed to authorize any transaction so prohibited.

SUBPART B—GENERAL LICENSES

§ 520.1 General License No. 1.

A general license is hereby granted authorizing any payment or transfer of credit from a locked account to a blocked account in a domestic bank providing the following terms and conditions are complied with:

(a) Such payment or transfer shall not be made:

- (1) From any blocked account in a domestic bank; or
- (2) From any other blocked account if such payment or transfer represents, directly or indirectly, a transfer of interest from a foreign country or national thereof to any other country or person.

(b) This general license shall not be deemed to authorize:

(1) Any payment or transfer to any blocked account held in a name other than that of the foreign country or national thereof who is the ultimate beneficiary of such payment or transfer; or

(2) Any foreign exchange transaction including, but not by way of limitation, any transfer of credit, or payment of an obligation, expressed in terms of the currency of any foreign country.

This general license should not be employed to make any payment or transfer of credit comprising an integral part of a transaction which cannot be effected without the subsequent issuance of a further license.

CROSS REFERENCES: For additional material relating to § 520.1, see § 520.321. For general ruling with respect to payments or transfers between blocked accounts, see § 520.220.

§ 520.2 General License No. 2.

(a) A general license is hereby granted:

(1) Authorizing any banking institution within the United States to debit any blocked account with such banking institution (or with another office within the United States of such banking institution) in payment or reimbursement for normal service charges owed to such banking institution by the owner or such blocked account;

(2) Authorizing any banking institution within the United States to make book entries against any foreign currency account maintained by it with a banking institution in any foreign country for the purpose of responding to debits to such account for normal service charges in connection therewith.

(b) [Reserved]

(c) As used in this general license, the term "normal service charges" shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, account carrying charges, notary and protest fees, and charges for reference books,

photostats, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, checkbooks, and other similar items.

§ 520.4 General License No. 4.

(a) General license is hereby granted authorizing the bona fide sale of securities excepted from § 520.101 on a national securities exchange by banking institutions within the United States and the making and receipt of payments, transfers of credit, and transfers of such securities which are necessary incidents of any such sale; *Provided, That:*

(1) The proceeds of the sale are credited to a blocked account in the name of the national for whose account the sale was made and in the banking institution within the United States which held the securities for such national; and

(2) This general license shall not be deemed to authorize the sale of any security excepted from § 520.101 registered or inscribed in the name of any of the foreign countries listed in § 520.101(a)(1) or any national thereof, irrespective of the fact that at any time (whether prior to, on, or subsequent to April 10, 1940) the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of the security.

(b) [Reserved]

(c) [Reserved]

(d) Securities issued or guaranteed by the Government of the United States or any State, commonwealth, territory, district, county, municipality or other political subdivision thereof (including agencies and instrumentalities of the foregoing) need not be sold on a national securities exchange: *Provided, That* such securities are sold at market value and pursuant to all other terms and conditions prescribed in this general license.

§ 520.5 General License No. 5.

A general license is hereby granted authorizing the payment from any blocked account to the United States or any agency or instrumentality thereof or to any State, commonwealth, territory, district, country, municipality or political subdivision in the United States, of customs duties, taxes, and fees payable thereto, by the owner of such blocked account.

[31 F.R. 7626, May 27, 1966]

§ 520.11 General License No. 11.

(a) *Certain payments for living expenses from certain blocked accounts authorized.* A general license is hereby granted authorizing payments and transfers of credit in the United States from blocked accounts in domestic banking institutions held in the name of an individual within the United States to or upon the order of such individual: *Provided, That:*

(1) Such payments and transfers of credit are made for the living, traveling, and similar personal expenses in the United States of such individual or his family; and

(2) The total of all such payments and transfers of credit made under this general license from the accounts of such individual does not exceed \$250 in any one calendar month.

(b) *Duty of banking institutions acting under this license.* Banking institutions effecting any such payment or transfer of credit shall satisfy themselves that the terms of this license are complied with.

§ 520.25 General License No. 25.

A general license is hereby granted exempting all transactions from the provisions of section 2A(1) of the order.

§ 520.26 General License No. 26.

A general license is hereby granted under section 2A(2) of Executive Order 8339, of April 10, 1940, as amended, authorizing the acquisition by, or transfer to, any person within the United States of any interest in any American Depositary Receipt or American Share physically situated within the United States representing any security or evidence thereof not physically situated within the United States which Receipt or Share was admitted to dealings on a national securities exchange on and prior to July 25, 1940: *Provided, however,* That this general license shall not be deemed to authorize the issuance of American Depositary Receipts or American Shares against the deposit after July 25, 1940 of any security or evidence thereof not physically situated within the United States: *And Provided,* That this general license shall not be deemed to authorize any transaction prohibited by reason of any provision (or ruling or regulation thereunder) of such order other than section 2A(2).

§ 520.27 General License No. 27.

A general license is hereby granted authorizing:

(a) The payment to, and receipt by, a banking institution within the United States of funds or other property representing dividends or interest on securities held by such banking institution in a blocked account: *Provided,* That the funds or other property are credited to or deposited in a blocked account in the name of the national for whose account the securities were held, and in the banking institution within the United States which held such securities; and

(b) The payment to, and receipt by, a banking institution within the United States of funds payable in respect of securities (including coupons) excepted from § 520.101 presented by such banking institution to the proper paying agents within the United States for redemption or collection for the account and pursuant to the authorization of nationals of any country listed in § 520.101(a)(1): *Provided, That:*

(1) The proceeds of the redemption or collection are credited to a blocked account in the name of the national for whose account the redemption or collection was made and in the banking institution within the United States which held the securities for such national; and

(2) This general license shall not be deemed to authorize the presentment for redemption of any security excepted from § 520.101 registered or inscribed in the name of any country listed in § 520.101(a)(1), or any national thereof, irrespective of the fact that at any time (whether prior to, on, or subsequent to April 10, 1940), the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of the security; and

(c) The performance of such other acts, and the effecting of such other transactions, as may be necessarily incident to any of the foregoing.

This general license shall not be deemed to authorize any payment, transfer or withdrawal from a blocked account in which the user of, or other obligor with respect to, a security has an interest if such issuer or obligor is a country listed in § 520.101(a)(1) or national thereof.

§ 520.30 General License No. 30.

A general license is hereby granted authorizing any bank or trust company incorporated under the laws of the United States or any State, commonwealth, territory or district of the United States, or any private bank subject to supervision and examination under the banking laws of any State of the United States, acting as trustee of any trust administered in the United States or as legal representative of any estate of an infant or incompetent administered in the United States, in which trust or estate one or more persons who are nationals of one of the foreign countries listed in § 520.101(a)(1) have an interest, beneficial or otherwise, or are cotrustees or corepresentatives, to engage in the following transactions:

(a) Payments of distributive shares of principal or income to all persons legally entitled thereto who are not nationals of any of the foreign countries listed in § 520.101(a)(1); and

(b) Other transactions arising in the administration of such trust or estate which might be engaged in if no national of any of the foreign countries listed in § 520.101(a)(1) were a beneficiary, cotrustee or corepresentative of such trust or estate: *Provided, however,* That this section shall not be deemed to authorize such trustee or legal representative to engage in any transaction at the request, or upon the instructions, of any beneficiary, cotrustee or corepresentative of such trust or estate or other person who is a national of any of the foreign countries listed in § 520.101(a)(1).

§ 520.30a General License No. 30A.

(a) A general license is hereby granted authorizing all transactions incident to the administration of the assets situated within the United States of any blocked estate in which any one of the following conditions is present:

(1) The estate is blocked solely by reason of an interest therein of a person other than the decedent; or

(2) [Reserved]

(3) The gross value of the assets within the United States does not exceed \$5,000:

Provided, however, That any property paid or distributed to a national of a country listed in § 520.101(a)(1) pursuant to this general license shall be subject to all the provisions of the order: *And provided further,* That any payment or distribution of any funds, securities or other choses in action to a national of a country listed in § 520.101(a)(1) shall be made by deposit in a blocked account in a domestic bank or with a public officer, agency, or instrumentality designated by a court having jurisdiction of the estate (i) in the name of the national who is the ultimate beneficiary thereof: (ii) in the name of a person who is not a national of a country listed in § 520.101(a)(1) in trust for the national who is the ultimate beneficiary; or (iii) under any other designation which clearly shows the interest therein of such national.

(b) This general license also authorizes all transactions incident to the following limited acts of administration of the assets situated within the United States of any other blocked estate:

(1) The appointment and qualification of a personal representative;
 (2) The collection and preservation of such assets by such personal representative and the payment of all costs, fees and charges in connection therewith; and

(3) The payment by such personal representative of funeral expenses and expenses of the last illness.

(c) This general license shall not be deemed to authorize:

(1) Any national of a country listed in § 520.101(a)(1) to act as personal representative or co-representative of any estate;

(2) Any national of a country listed in § 520.101(a)(1) to represent, directly or indirectly, any person who has an interest in an estate;

(3) Any transaction, directly or indirectly, at the request or upon the instructions of any national of a country listed in § 520.101(a)(1); or

(4) Any transaction which could not be effected if no national of a country listed in § 520.101(a)(1) had any interest in such estate.

(d) As used in this general license, the term "blocked estate" shall mean any decedent's estate in which a national of a country listed in § 520.101(a)(1) has an interest. A person shall be deemed to have an interest in a decedent's estate if he (1) was the decedent; (2) is a personal representative; or (3) is a creditor, heir, legatee, devisee, distributee, or beneficiary.

(e) This general license authorizes all transactions incident to the collection, conservation, administration, liquidation, and distribution of any blocked estate engaged in since the effective date of the order, provided such transactions comply with the terms and conditions of this general license.

(f) Any transfer or other dealing in any property authorized under this general license shall not be deemed to limit or restrict the exercise of any power or authority under section 5(b) of the Trading With the Enemy Act, as amended.

§ 520.33 General License No. 33.

(a) *Certain remittances to U.S. citizens in foreign countries authorized.* A general license is hereby granted authorizing remittances by any person through any domestic bank to any individual who is a citizen of the United States within any foreign country and any domestic bank is authorized to effect such remittances, provided the following terms and conditions are complied with:

(1) Such remittances do not exceed \$1,000 in any one calendar month to any payee and his household and are made only for the necessary living and traveling expenses of the payee and his household, except that an additional sum not exceeding \$1,000 may be remitted once to such payee if such sum will be used for the purpose of enabling the payee or his household to return to the United States;

(2) Such remittances are not made from a blocked account other than from an account in a banking institution within the United States in the name of, or in which the beneficial interest is held by, the payee or members of his household.

(b) *Methods of effecting remittances.* Remittances authorized in this section may be effected in free dollars.

(c) *Duty of persons and domestic banks acting under this section.*
All persons making such remittances and all domestic banks effecting such remittances shall satisfy themselves that the foregoing terms and conditions are complied with.

§ 520.74 General License No. 74.

(a) *Certain U.S. citizens licensed as generally licensed nationals.*
A general license is hereby granted licensing as a generally licensed national any citizen of the United States who is within any foreign country and who is a national of a country listed in § 520.101(a)(1).

(b) [Reserved]

(c) [Reserved]

§ 520.86 General License No. 86.

(a) A general license is hereby granted authorizing the following transactions:

(1) The payment of premiums and interest on policy loans with respect to any blocked life insurance policy;

(2) [Reserved]

(3) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest is that of a beneficiary:

Provided, however. That this paragraph does not authorize (i) any payment from any blocked account except a blocked account of the insured or beneficiary, or (ii) any payment by the insurer to a national of a country listed in § 520.101(a)(1) unless payment is made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

(b) [Reserved]

(c) This general license further authorizes the application, in accordance with the provisions of the policy or the established practice of the insurer, of the dividends, cash surrender value, or loan value, of any blocked life insurance policy for the purpose of:

(1) Paying premiums;

(2) Paying policy loans and interest thereon;

(3) Establishing paid-up insurance; or

(4) Accumulating such dividends or values to the credit of the policy on the books of the insurer.

(d) As used in this general license:

(1) The term "blocked life insurance policy" shall mean any life insurance policy or annuity contract or contract supplementary thereto, in which there is a blocked interest.

(2) Any interest of a national of a country listed in § 520.101(a)(1) shall be deemed to be a "blocked interest."

(3) The term "servicing" shall mean the following transactions with respect to any blocked life insurance policy:

(i) The payment of premiums, the payment of loan interest, and the repayment of policy loans;

(ii) The effecting by a life insurance company or other insurer of loans to an insured;

(iii) The effecting on behalf of an insured of surrenders, conversions, modifications, and reinstatements; and

(iv) The exercise or election by an insured of nonforfeiture options, optional modes of settlement, optional disposition of dividends, and

other policy options and privileges not involving payment by the insurer.

(4) The term "transfer" shall mean the change of beneficiary, or the assignment or pledge of the interest of an insured in any blocked life insurance policy subsequent to the issuance thereof.

(e) This section shall not be deemed to authorize any transaction with respect to any blocked life insurance policy issued by a life insurance company or other insurer which is a national of a country listed in § 520.101(a)(1) or which is not doing business or effecting insurance in the United States.

§ 520.87 General License No. 87.

A general license is hereby granted exempting all transactions from the provisions of section 2A(2) of the order, except transactions with respect to foreign scheduled securities as defined in § 520.205 (General Ruling No. 5) and domestic scheduled securities as defined in § 520.205b (General Ruling No. 5B).

NOTE: For interpretation of § 520.87, see § 520.335.

§ 520.94 General License No. 94, as amended.

(a) *Blocked countries generally licensed subject to certain conditions.* A general license is hereby granted licensing all blocked countries and nationals thereof to be regarded as if such countries were not foreign countries designated in the order: *Provided, That*

(1) Any property in which on the effective date hereof any of the following had an interest: (i) Any blocked country (including countries licensed hereby) or person therein; or (ii) any other partnership, association, corporation, or other organization, which was a national of a blocked country (including countries licensed hereby) by reason of the interest of any such country or person therein; or

(2) Any income from such property accruing on or after the dates specified in paragraph (e) of this section, shall continue to be regarded as property in which a blocked country or national thereof has an interest and no payment, transfer, or withdrawal or other dealing with respect to such property shall be effected under, or be deemed to be authorized by this paragraph.

(b) *Transactions under other licenses authorized without regard to certain restrictions.* With respect to property subject to the proviso of paragraph (a) of this section, any transaction which is authorized under any license (other than §§ 520.1, 520.4, 520.27, and 520.30a, General Licenses Nos. 1, 4, 27, and 30A, or any other license to the extent that it merely authorizes transfers between blocked accounts of the same person or changes in the form of property held in a blocked account) may be effected without regard to any terms of such license relating to the method of effecting such transaction.

(c) [Reserved]

(d) [Reserved]

(e) *Effective date.* The effective date of this section shall be December 7, 1945, except that it shall be October 5, 1945, as to France, November 20, 1945, as to Belgium, November 30, 1946, as to Switzerland and Liechtenstein, December 31, 1946, as to Germany and Japan, and March 28, 1947, as to Sweden.

§ 520.98 General License No. 98.

(a) *Certain transactions with respect to coupons appertaining to foreign or domestic scheduled securities authorized.* Notwithstanding

the provisions of § 520.205 (General Ruling No. 5) and § 520.205b (General Ruling No. 5B), the following transactions with respect to any coupon which is a foreign scheduled security or a domestic scheduled security, as defined in said sections (any such coupon is hereinafter referred to as a "scheduled coupon" for the purposes of this section) are licensed subject to subparagraph (5) (i) and (ii) of this paragraph if effected within the United States:

(1) Delivery by any person in the United States of any scheduled coupon for collection to any person who in the ordinary course of his business forwards for payment coupons appertaining to securities;

(2) Receipt from any person in the United States for collection and forwarding for collection of any scheduled coupon by any person who in the ordinary course of his business forwards for payment coupons appertaining to securities;

(3) Presentation of any scheduled coupon to the issuer or its paying agent for payment thereof;

(4) Payment of any scheduled coupon by the issuer or its paying agent upon condition that within 30 days after presentation for payment the issuer or its paying agent shall return the coupon to the person who presented it for payment; and

(5) Transfer of cash or credit for a scheduled coupon to any party to any transaction licensed by this section; *Provided, That:*

(i) No transaction referred to in subparagraphs (1), (2), (3), (4), and (5) of this paragraph is licensed except upon the condition that the party delivering, forwarding, or presenting any such scheduled coupon, upon return to him of such coupon, reimburse the person returning it to him in the amount paid or credited to him by that person.

(ii) No transaction licensed by this section shall operate to transfer title to or to discharge the obligation evidenced by any scheduled coupon unless authorized by a license from the Director, Office of Foreign Assets Control, expressly referring to General Ruling No. 5 or General Ruling No. 5B.

(b) *Reports and notices required.* The provisions of §§ 520.205(e) (5) and 520.205b(e) (5) apply to any person making a return of any scheduled coupon.

§ 520.101 General License No. 101.

(a) A general license is hereby granted licensing all property now blocked under the order to be regarded as property in which no blocked country or national thereof has, or has had, any interest: *Provided, however,* That the license granted by this paragraph shall not apply to any property blocked by reason of the interest on or since the effective date of the order of any of the following:

(1) Czechoslovakia, Estonia, Latvia, Lithuania, and Germany (except for any interest of Germany now owned by the Federal Republic of Germany, the city of Berlin (Western Sectors) or the Saar);

(2) Any individual, partnership, association, corporation, or other organization which on December 7, 1945, was in Czechoslovakia, Estonia, Latvia, or Lithuania;

(3) Any individual, partnership, association, corporation, or other organization which on December 31, 1946, was in any of the areas of Germany under control or administration of the Union of Soviet Socialist Republics; or

(4) Any other partnership, association, corporation, or other organization which was a national of any country designated in subpara-

graph (1) of this paragraph by reason of the interest therein of any such country or by reason of the interest therein of any individual, partnership, association, corporation, or other organization specified in subparagraph (2) or (3) of this paragraph.

(b) Nothing in this section shall be deemed to apply to any property subject to §§ 520.205 and 520.205b (General Ruling Nos. 5 and 5B), relating to foreign and domestic scheduled securities.

(c) Nothing in this section shall be deemed to apply (1) to any property or interest title to which is vested in the Attorney General, or as to which an outstanding supervisory order has been issued by the Attorney General or the Alien Property Custodian or the Office of Alien Property Custodian, or (2) to any business enterprise or its property as to which the Attorney General or the Alien Property Custodian or the Office of Alien Property Custodian has issued an outstanding supervisory order, or which has been vested or assets of or interests in which have been vested.

(Sec. 5, 40 Stat. 415, as amended (50 U.S.C. App. 5) ; E.O. 8389, 5 FR 1400, as amended by E.O. 8785, 6 FR 2897 ; E.O. 8832, 6 FR 3715 ; E.O. 8963, 6 FR 6348 ; E.O. 8998, 6 FR 6785 ; E.O. 9193, 7 FR 5205 ; 3 CFR 1943 Cum. Supp. ; E.O. 10348, 17 FR 3769, 3 CFR 1952 Supp. ; E.O. 11281, 3 CFR 1966-1970 Comp.) [38 FR 7985, Mar. 27, 1973]

§ 520.102 General License No. 102.

(a) A general license is hereby granted licensing any property in any account where the total value of the property in the account on June 1, 1953, was not more than \$100 to be regarded as property in which no blocked country or national thereof has, or has had, any interest.

(b) Nothing in this section shall be deemed to apply to any property subject to §§ 520.205 and 520.205b (General Ruling Nos. 5 and 5B), relating to foreign and domestic scheduled securities.

(c) Nothing in this section shall be deemed to apply (1) to any property or interest that has been vested, or as to which an outstanding supervisory order has been issued, by the Attorney General or the Alien Property Custodian or the Office of Alien Property Custodian or (2) to any business enterprise and/or its property as to which the Attorney General or the Alien Property Custodian or the Office of Alien Property Custodian has issued an outstanding supervisory order, or which has been vested, or assets of or interests in which have been vested.

§ 520.103 Unblocking of Hungarian Property.

A general license is hereby granted licensing the following property blocked under Executive Order 8389, as amended, to be regarded as property in which no blocked country or national thereof has, or has had, any interest:

(a) All property blocked by reason of the interest on or since March 13, 1941, of Hungary or of any individual, partnership, association, corporation, or other organization which on January 1, 1945, was in Hungary.

(Sec. 5, 40 Stat. 415, as amended (50 U.S.C. App. 5) ; E.O. 8389, 5 FR 1400, as amended by E.O. 8785, 6 FR 2897 ; E.O. 8832, 6 FR 3715 ; E.O. 8963, 6 FR 5348 ; E.O. 8998, 6 FR 6785 ; E.O. 9193, 7 FR 5205 ; 3 CFR 1943 Cum. Supp. ; E.O. 10348, 17 FR 3769, 3 CFR 1952 Supp. ; E.O. 11281, 3 CFR 1966-1970 Comp.) [38 FR 7985, Mar. 27, 1973]

SUBPART C—GENERAL RULINGS

§ 520.203 General Ruling No. 3.

The attention of banks, brokers, transfer agents, registrars and all other persons and banking institutions in the United States is invited to the fact that the Treasury Department construes Executive Order 8389, April 10, 1940, as amended, and the regulations issued pursuant thereto as prohibiting the acquisition, transfer, disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guarantee of signatures on, or otherwise dealing in, or with respect to, any security (or evidence thereof) registered or inscribed in the name of any country designated in Executive Order 8389, April 10, 1940, as amended, or any national thereof, and not licensed under § 520.101 except pursuant to a specific license, irrespective of the fact that at any time (either prior to, on, or subsequent to April 10, 1940) the registered or inscribed owner thereof may have, or appear to have, assigned, transferred or otherwise disposed of any such security.

§ 520.204 General Ruling No. 4.

(a) Except as specifically provided in this section or otherwise, all definitions appearing in Executive Order 8389 of April 10, 1940, as amended, and the regulations issued thereunder, shall apply to the terms employed in all rulings, licenses, instruction, etc., and, in addition, the following definitions and rules of interpretation are prescribed:

- (1) The term "order" shall mean Executive Order 8389, as amended.
- (2) The term "license" shall mean a license issued under the order.
- (3) The term "interest" when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.
- (4) The term "blocked country" shall mean any foreign country designated in the order.

(5) [Reserved]

(6) [Reserved]

(7) Any person licensed as a "generally licensed national" shall, while so licensed, be regarded as a person within the United States who is not a national of any blocked country: *Provided, however*, That the licensing of any person as a "generally licensed national" shall not be deemed to suspend in any way the requirements of the order and regulations relating to reports, and the production of books, documents, records, etc. (see section 4 of the order).

(8) The term "blocked account" shall mean an account in which any blocked country or national thereof has an interest, with respect to which account payments, transfers or withdrawals or other dealings may not be made or effected except pursuant to a license authorizing such action. The term "blocked account" shall not be deemed to include the accounts of generally licensed nationals.

(9) The term "banking institution" shall have the meaning prescribed in section 5F of the order.

(10) The term "domestic bank" shall mean any branch or office within the United States of any of the following which is not a national of any blocked country: any bank or trust company incorporated under the banking laws of the United States or of any State, commonwealth, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws

of the United States or of any State, commonwealth, territory or district of the United States. The Treasury Department may also authorize any other banking institution to be treated as a "domestic bank" for the purpose of this definition or for the purpose of any license, ruling, or instruction.

(11) The term "national securities exchange" shall mean an exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (48 Stat. 885; 15 U.S.C. 78f).

(12) Reference to any general license or general ruling which has been amended shall be deemed to refer to such license or ruling as amended.

(13) Any person who by virtue of any definition in the order is a national of more than one blocked country shall be deemed to be a national of each of such blocked countries.

(14) In any case in which a person is a national of two or more blocked countries, a license with respect to nationals of one of such blocked countries shall not be deemed to include such person unless a license of equal or greater scope is outstanding with respect to nationals of each other blocked country of which such person is a national.

(15) The Secretary of the Treasury reserves the right to exclude from the operation of any license or from the privileges therein conferred or to restrict the applicability thereof with respect to particular persons, transactions or property or classes thereof. Such action shall be binding upon all persons receiving actual notice thereof, or constructive notice if in any case notice is filed pursuant to the provisions of the Federal Register Act (49 Stat. 500, as amended by 50 Stat. 304, 44 U.S.C. 301 et seq.).

(16) No license shall be deemed to authorize any transaction prohibited by reason of the provisions of any law, proclamation, order or regulation, other than Executive Order 8389, as amended, and these regulations.

(17) Any amendment, modification, or revocation of any order, regulation, ruling, instruction, or license issued by or under the direction of the Secretary of the Treasury pursuant to sections 3(a) or 5(b) of the Trading With the Enemy Act, as amended, shall not be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation, and all penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

(18) No license or other authorization issued by or under the direction of the Secretary of the Treasury pursuant to the order or sections 3(a) or 5(b) of the Trading With the Enemy Act, as amended, shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such license or other authorization specifically so provides.

§ 520.205 General Ruling No. 5.

(a) *Prohibitions with respect to foreign scheduled securities.* Except as authorized by license or other authorization specifically referring to this section from the Director, Office of Foreign Assets Control, Treasury Department, or as required or authorized by paragraph (e)

of this section, any transfer of, dealing in, or other transaction by a person within the United States or a person subject to the jurisdiction of the United States with respect to a foreign scheduled security or any obligation, interest, or claim of which such security is evidence, is prohibited.

(b) *Definition.* As used in this section, the term "foreign scheduled securities" shall include all securities wherever located which appear on the list in paragraph (g) of this section, entitled "Foreign Scheduled Securities," including coupons appertaining thereto.

(c) *Notice.* The provisions of this section shall apply whether the parties to any act with respect to foreign scheduled securities prohibited by this section, or persons subject to the requirements with respect to foreign scheduled securities imposed by this section, do or do not have actual notice or knowledge that such securities are foreign scheduled securities.

(d) *Effect of a prohibited transaction.* Any transaction in violation of the prohibitions contained in paragraph (a) of this section shall be null and void.

(e) *Duty of persons bringing, receiving, or holding foreign scheduled securities.* (1) Foreign scheduled securities brought from a foreign country to the United States by any person shall be forwarded by such person within five (5) days after his arrival in the United States to the Federal Reserve Bank of New York together with a statement in triplicate setting forth the following:

(i) His name and address;

(ii) A complete description of the securities;

(iii) The name and address of the person from whom he received the securities and the date of receipt; and

(iv) The circumstances under which the securities were received.

(2) Foreign scheduled securities mailed or otherwise sent from a foreign country to any person within the United States shall be forwarded by such person within (5) days after receipt thereof to the Federal Reserve Bank of New York together with the above-specified statement in triplicate.

(3) Foreign scheduled securities held on January 20, 1951, by any person within the United States (whether for himself or for any other person) shall within 30 days thereafter be forwarded by such person to the Federal Reserve Bank of New York together with the above-specified statement in triplicate. Any such person who on January 20, 1951, held foreign scheduled securities as security for an obligation owing to him shall not be required to forward the securities to the Federal Reserve Bank of New York, but shall be required to file the above specified statement in triplicate with the Office of Foreign Assets Control, Treasury Department, Washington, D.C., 20220, together with a statement of the circumstances under which the securities are being held.

(4) Foreign scheduled securities received by any person within the United States (whether for himself or for any other person) shall be forwarded by such person within five (5) days after receipt thereof to the Federal Reserve Bank of New York together with the above-specified statement in triplicate.

(5) Any person required by the provisions of subparagraph (3) or (4) of this paragraph to forward securities to the Federal Reserve

Bank of New York may, instead, return such securities to the person from whom he received them, if the latter is within the United States. The person initiating such return shall file a report with the Office of Foreign Assets Control, Treasury Department, Washington, D.C., 20220, giving the name and address of the person to whom he makes such return and he shall advise such person that they are foreign scheduled securities which should be deposited with the Federal Reserve Bank of New York pursuant to this ruling unless they are returned with a similar notice to the person in the United States from whom they were received. The last person in the United States to whom such securities are returned under this subparagraph shall forward them to the Federal Reserve Bank of New York, together with the above-specified statement in triplicate with respect to his original receipt of the securities. In case securities are returned under the rules of a securities exchange, an association of securities dealers, or a similar organization, the last member of an exchange or similar organization or dealer to whom such securities are returned under such procedure, if he is not the last person to whom such securities are returned hereunder, shall file with the Office of Foreign Assets Control, Treasury Department, Washington, D.C., 20220, the above-specified statement in triplicate with respect to his original receipt of the securities together with the date on which he returned such securities to the person from whom he received them.

(6) Foreign scheduled securities held by any person not within the United States may be deposited with the Federal Reserve Bank of New York together with the statement specified in subparagraph (1) of this paragraph on or before July 31, 1951.

(7) Acts or transactions required or authorized by the provisions of this paragraph are licensed to the extent, and only to the extent, of permitting compliance therewith.

(f) *Disposition of securities delivered to Federal Reserve Bank of New York.* The Federal Reserve Bank of New York shall act only as fiscal agent of the United States under this section, and shall receive and hold securities delivered to it pursuant to this section as such fiscal agent, subject to the further order of the Director, Office of Foreign Assets Control. Applications for release of securities so held may be filed with the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220.

(g) *Appendix.*

FOREIGN SCHEDULED SECURITIES

BONDS

Antwerp, City of—External Sinking Fund Gold 5% Loan of 1928—Due 1958:
\$1,000—2298, 2300.

Argentine, Republic of—Sinking Fund 4% Conversion Loan Due February 15, 1972:

\$1,000—11443, 12568, 16957, 19003, 21613, 21614, 24179, 24724, 25347, 25348, 25352, 25353, 25355, 28578, 31200, 31201, 31202, 33563, 34332, 34704, 35382, 39176, 40100, 40101, 40102, 40103, 40104, 40146, 49054, 49702, 54547, 54548, 55218, 55931, 55933, 58783, 59842, 59975, 60755, 60756, 60757, 60758, 60806, 60807, 60808, 62925, 62926, 64446, 68258, 68259, 68260, 68261, 68262.

\$700—1946.

Argentine, Republic of—6% Bonds 1923/57:

\$1,000—9988.

Australia, Commonwealth of—4½% Bonds 1928 Due 1956:

\$1,000—3426, 3428, 9814, 9908, 9909, 9910, 15343, 20862, 27202, 31011, 44858.

Australia, Commonwealth of—5% Bonds 1925 Due 1955:

\$1,000—6932, 6933, 19046, 19047, 19048, 19049, 19050, 19051, 22879, 40093.

Belgium, Kingdom of—30 Year External Sinking Fund 6% Gold Loan of 1925 Due 1955:

\$1,000—7493.

Bolivia, Republic of—External Secured Sinking Fund Gold Bonds 7% of 1928 Due 1969:

\$1,000—1089, 8171, 10531, 13799, 13824, 16290, 17449, 18070, 21228.

Bolivia, Republic of—8% Bonds, 1922/47:

\$1,000—1083, M13981, 14941.

Brazil, United States of—5% Funding Bonds Due 1951:

\$1,000—9745.

\$100—20663, 20664, 20665, 20667, 20674, 39915, 33941, 33942, 33949, 34898, 34899, 34900, 35181, 35182, 35498, 35499, 35500, 35501, 41538, 41678, 42804, 42805, 42835, 42868, 42869, 48337, 57746, 57747, 60446, 60464, 62521, 66824, 70275, 70276, 70281, 71485, 71486.

Brazil, United States of—External Sinking Fund Gold 6½% Loan of 1926 Due October 1, 1957:

\$1,000—59, 301, 2318, 4097, 7795, 9990, 12239, 13199, 13327, 13973, 14223, 14543, 17000, 17454, 18237, 18238, 18564, 19582, 19586, 19592, 19620, 19632, 19633, 19798, 19824, 19825, 19903, 19915, 19975, 20085, 20120, 20138, 20159, 20164, 20170, 20256, 20270, 20416, 20438, 20504, 20531, 20563, 20573, 20578, 20586, 20603, 20632, 20633, 20716, 20733, 20745, 20758, 20853, 20914, 20928, 20938, 21007, 21008, 21030, 21036, 21081, 21082, 21155, 21259, 21361, 21367, 21408, 21428, 21432, 21448, 21773, 21779, 21780, 21863, 21883, 21948, 21961, 21998, 22074, 22136, 22189, 22192, 22216, 22346, 22370, 22407, 22425, 22433, 22434, 22435, 22469, 22470, 22471, 22486, 22514, 22515, 22591, 22650, 22679, 22684, 22880, 22897, 22928, 22998, 23072, 23219, 23222, 23317, 23349, 23378, 23389, 23440, 23447, 23489, 23490, 23524, 23591, 23628, 23712, 23855, 24259, 24968, 25361, 25485, 25674, 25767, 25857, 26358, 26462, 26650, 26832, 27588, 27637, 27648, 27776, 27788, 28711, 28767, 28855, 29213, 29838, 31500, 31886, 33105, 33789, 34363, 34449, 34687, 35661, 36007, 36086, 36181, 36573, 36802, 37382, 38916, 39175, 40318, 40884, 41034, 41691, 46344, 47676, 48342, 48664, 48665, 48896, 49395, 49415, 50114, 51915, 52758, 53831, 53997, 54239, 54240, 54372, 54608, 55468, 56019.

\$500—520, 545, 546, 769, 804, 887, 943, 1082, 5805.

Brazil, United States of—6½% Bonds Issued 1927 Due 1957:

\$1,000—24641.

Brisbane, City of—External Sinking Fund Gold 5% Loan of 1928 Due 1958:

\$1,000—4072, 5334.

Buenos Aires, Province of—3% Bonds 1936/84:

\$100—758, 1260, 1350, 1891, 1957, 1958, 2127, 4099, 4100, 5641.

Buenos Aires, Province of—4½%—4% External Readjust, Sinking Fund Due 3/1/77:

\$1,000—355, 356, 395, 396, 4219, 4889, 7191, 8335, 10851, 11263, 11273, 11284, 11285, 11286, 11287, 11330, 13766, 14043, 14320, 14322, 14323, 14359, 14402, 14456, 14555, 16209, 16210, 16214, 16973, 17005, 17012, 17034, 17035, 17036, 17053, 17061, 17062, 17063, 17064, 17081, 17095, 17130, 17426, 17434, 17488, 17502, 17505, 18676, 19409, 19414, 21648, 21649, 22952, 22968, 22984, 22985, 22986, 22987, 22999, 23302, 23716, 24253, 24581, 24651, 24780, 25392, 25731, 31338, 31488, 31766, 31917, 32103, 32391, 32775, 32776, 32777, 32778, 32779, 32780, 32979, 34637, 34638.

\$500—1042, 1043, 1047, 1048, 1049, 1058, 1059, 1076, 1446, 1448, 1454, 1472, 1636, 1697, 1698, 1791, 1794, 1932, 1933, 2734, 2735, 2736, 2738, 2739, 3564.

Caja De Prestamos Para Obras De Irrigacion Y Fomento De La Agricultura S. A.—4½% 35 Year Gold Bonds Due 1943:

\$1,000—5446, 5574, 5984, 6859, 8189, 9061, 9082, 9386, 9473, 9692, 10520, 12622.

\$100—3315, 8119.

Canada, Dominion of—3% Bonds 1938 Due 1968:

\$1,000—34446.

Canada, Dominion of—5% Bonds 1922 Due 1952:

\$1,000—17199.

Canadian National Railway Co.—Guaranteed Gold 5% Bonds Issued July 1929 Due 1969:

\$1,000—25208, 46536.

Canadian National Railway Co.—Guaranteed Gold, 5% Bonds Issued October 1929 Due 1969:

\$1,000—9886, 11257, 18717.

Canadian Pacific Railway Company Perpetual 4% Consolidated Debenture Stock:

\$1,000—1162, 1643, 2244, 2893, 4521, 4653, 5205, 6818, 6993, 7042, 8583, 9515, 10016, 10428, 11934, 14039, 15902, 16285, 16313, 16447, 16470, 17148, 17779, 18053, 18482, 18769, 18885, 19061, 19065, 19666, 19667, 19984, 20101, 20349, 21227, 21707, 21708, 22407, 22788, 24517, 29180, 29909, 30187, 30442, 31628, 31920, 32285, 33534, 33932, 34111, 34146, 35465, 36832, 36955, 36956, 37817, 39852, 42832, 44210, 44262, 44263, 44264, 44572, 45459, 45834, 76073, 76074, 76975, 76076, 76077, 80802, 81513, 84283, 86126, 86263, 86825.

\$500—364, 1888, 1889, 4133, 4134.

Canadian Pacific Railway Company—4½% Gold Bonds 20 Year Guaranteed, 1926/46:

\$1,000—222, 300, 306, 2273, 3169, 3194, 3558, 3747, 5375, 6853, 8358, 9340, 9550, 9551, 10182, 10902, 11120, 11503, 11516, 16074, 16282, 16286, 16304, 17868.

\$500—147, 148, 1888, 1889, 1895, 2518, 2519, 3231, 3232.

Canadian Pacific Railway Company—4½% 30 Year Guaranteed Gold Bonds Due July 1, 1960:

\$1,000—206, 370, 371, 387.

\$500—86, 87, 88, 108, 109, 110, 111, 137, 158, 167, 169, 172, 257, 258, 259, 260, 261, 262, 263, 264.

Carlsbad, City of—8% External Loan Bonds 1924 Due 1954:

\$1,000—300, 301, 302, 303, 595, 597, 598, 1050, 1051, 1052.

Cauca Valley, Department of (Columbia)—7% 1948:

\$1,000—1149.

Chile, Republic of, External Sinking Fund Gold 6% Loan of 1926 Due 1960:

\$1,000—1493, 2111, 2141, 2171, 2237, 2380, 2457, 2475, 2482, 2483, 2505, 2506, 2512, 2516, 2535, 2723, 2724, 2795, 2806, 2844, 2854, 2914, 2919, 2934, 2981, 3142, 3143, 3144, 3145, 3146, 3147, 3148, 3149, 3150, 3151, 3198, 3256, 3301, 3358, 3379, 3390, 3451, 3452, 3489, 3575, 3653, 3875, 3931, 3940, 4880, 7137, 8957, 9733, 9783, 11219, 12764, 14000, 14418, 15053, 15527, 15988, 17222, 17974, 18599, 18882, 19204, 20547, 23046, 24418, 24907, 28843, 30398, 30976, 31084, 31499, 31586, 32229, 32736, 33379, 34785, 35473, 35594, 35658, 36121, 36944, 38603, 38710, 40248, 40263, 40344.

\$500—236, 241, 242, 476, 507, 535, 536, 543, 548, 572, 580, 594, 600, 602, 636, 748, 749, 750, 751, 771, 772, 1605.

Chile, Republic of, External Sinking Fund Gold Loan 6% of 1927 Due 1961:

\$1,000—126, 133, 171, 206, 291, 353, 363, 564, 602, 619, 629, 715, 717, 719, 740, 807, 871, 872, 877, 1007, 1008, 1198, 1223, 1246, 1316, 2006, 2415, 3392, 5242, 5283, 6095, 6769, 7334, 9227, 9228, 9391, 9682, 12812, 13810, 17229, 19029, 19357, 19595, 20436, 21023, 21619, 22010, 22598, 22933, 23216, 23340, 23503, 23554, 24380, 24467, 24933, 25579.

\$500—39, 181, 182, 240, 242, 281, 282.

Chile, Republic of, External Railway Ref. Sinking Fund—6% Gold Loan of 1928 Due Jan. 1, 1961:

\$1,000—1264, 1273, 1288, 1359, 1382, 1393, 1394, 1409, 1445, 1451, 1491, 1569, 1609, 1612, 1618, 1626, 1638, 1643, 1687, 1698, 1711, 1738, 1924, 1925, 1932, 1934, 2110, 4111, 4967, 15048, 15254, 15342, 15343, 21363, 26403, 26441, 30840, 34642, 37801, 38053, 39004, 39005, 39036, 39700, 40718, 44191.

\$500—268, 288, 474, 657, 658, 2115, 2294.

Chile, Republic of, External Sinking Fund Gold—6% of 1929, Due 1962:

\$1,000—39, 59, 60, 144, 210, 223, 224, 247, 248, 3237, 7208, 7342, 8759.

\$500—316, 317, 555, 556, 573, 586, 592, 593, 594, 630.

Chile, Republic of, External Sinking Fund Gold—6% of 1930 Due 1963:

\$1,000—32, 186, 202, 231, 288, 289, 290, 291, 292, 293, 294, 347, 350, 351, 385, 5681, 14425, 16065, 16428, 18264, 21244.

\$500—D 97, D 98.

Chile, Republic of—7% Bonds, 1922/42:

\$1,000—1139, 6734, 10040, 10461, 14099.

Chilean Consolidated Municipal Loan External Sinking Fund Gold 7% Series A, 1929/60:

\$1,000—27, 34, 35, 36, 37, 133, 162, 314, 421, 422, 431, 432, 433, 434, 435, 464, 465, 535, 608, 609, 710, 725, 769, 802, 1507, 1508, 4575, 6629, 6630, 7094, 8487, 10556, 10557, 11395, 11396.

\$500—21, 95, 137, 138, 139, 154, 168, 180, 209, 216, 281, 286, 287, 288, 289, 290, 291, 342, 343, 344.

Chinese Republic—5% Bonds 1925/48:

\$500—781737, 781738, 781747, 781753, 781756, 781777, 781780, 781781, 781788, 781799.

Colombia, Republic of—4% Bonds 1934/46:

\$30—E 18308, E 47740.

Colombia, Republic of—External Sinking Fund Gold 6% Loan of 1927 Due January 1, 1961:

\$1,000—479, 698, 926, 13649, 16001, 16493.

\$500—159, 425.

Cuba, Republic of—External Gold 4½% Loan of 1909 Due August 1949:

\$1,000—2312, 9804, 9805, 10239, 10283.

Cuba, Republic of—External Sinking Fund 4½% of 1937 Due 1977:

\$1,000—79691, 79886, 79891, 80755.

\$100—6597, 6602.

Denmark, Kingdom of—External Gold 4½% Loan of 1928 Due 1962:

\$1,000—459, 710, 2182, 2939, 4572, 5101, 14620, 17538, 25691, 26514, 26515, 35976, 37012, 38205, 38811, 39701, 42515, 44317, 48930, 50724, 52276, 52744, 54646, 54817, 54822, 54823.

Denmark, Kingdom of—External Gold 5½% Loan of 1925 Due 1955:

\$1,000—5591, 5829, 27520.

\$500—1440.

Denmark, Kingdom of—External Gold 6% Loan of 1921 Due 1942:

\$1,000—26032.

Dominican Republic Customs Administration—20 year 5½% Gold Loan of 1922-6 Due 1961:

\$1,000—197, 266, 276, 400, 426, 757, 900, 1072, 1442, 1992, 2672, 2793, 2795, 2896, 2946, 3667, 4130, 4544, 4577, 5552, 5667, 5789, 6376, 7176, 7322, 8507, 8544, 8757, 9777.

Dominican Republic Customs Administration, Sinking Fund Gold 5½% Loan of 1926-1928 Due 1969 First Series:

\$1,000—928, 2864, 3004, 4871, 4872, 4873, 4874.

Dominican Republic—Sinking Fund Gold 5½% Loan of 1926-1928—Due 1969:

\$1,000—97, 101, 114, 2468, 2479, 2527, 2633, 3363.

\$500—101, 109, 114, 115.

Frankfort on Main, City of—7% Bonds, 1925-1945:

\$1,000—3576.

German Atlantic Cable Company—7% Bonds 1925-1945:

\$1,000—35, 36, 45, 46, 48, 49, 68, 69, 86, 101, 127, 145, 156, 160, 161, 162, 164, 181, 182, 184, 193, 215, 274, 300, 319, 335, 351, 413, 420, 425, 438, 479, 485, 592, 593, 665, 697, 736, 779, 802, 826, 868, 910, 1004, 1051, 1052, 1115, 1181, 1183, 1186, 1188, 1266, 1741, 1876, 1879, 1881, 1972, 2101, 2147, 2227, 2340, 2343, 2366, 2414, 2463, 2521, 2522, 2662, 2705, 2707, 2729, 2737, 2742, 2751, 2752, 2763, 2861, 2950, 2957, 2977, 2984, 2987, 3159, 3249, 3263, 3347, 3394, 3432, 3484, 3507, 3568, 3576, 3583, 3585, 3586, 3591, 3603, 3512, 3620, 3636, 3640, 3690, 3751, 3791.

\$500—7, 16, 83, 180, 296.

Germany, Government of—7% 1924 Due 1949:

\$1,000—55040, 55043, 66023, 66024, 66025, 66026, 66027, 66028, 66030, 66031, 66032, 66033, 66034, 66035, 66036, 66038, 66039, 66040, 66041, 66043, 66044, 66045, 66047, 66048, 66049, 66050, 93105.

Haiti, Republic of—6% 1922-1952:

\$1,000—4988, 8031,

Hellenic Republic Water Works—Gold Bonds 4% 1985:

Face value not stated—673, 3066, 5871, 6890.

Japan, Empire of—6½% Sinking Fund Gold Bonds of 1924 Due 1954:

\$1,000—53833.

Mexican Funding Notes (coupon 1 and 2):

\$4.00—3487, 3488.

\$8.00—18646, 19968, 20658.

\$9.00—6296, 6297, 6298, 65684.

\$20.00—35567, 35568, 35569, 35570, 35571.

\$70.00—35567, 35568, 35569, 35570, 35571.

Milan, City of—External Sinking Fund Gold 6½% Loan of 1927 Due 1952:

\$500—278, 586.

\$100—585, 1007, 1186, 1188.

Mortgage Bank of Chile—Guaranteed Sinking Fund 6% Bonds 1928—Maturity 1961:

\$1,000—1548, 1549.

Mortgage Bank of Chile—Guaranteed Sinking Fund Gold Loan 6½% Bonds 1925-1957:

\$1,000—4544, 5091.

National Economic Bank of Warsaw, 7% or 4½% 1928 Due 1966:

\$1,000—222, 223, 224, 225, 226.

National Railways of Mexico—4½% Prior Lien Sinking Fund Gold Due 1957:

\$1,000—34468.

New South Wales, State of—External Sinking Fund Gold 5% Loan of 1927 Due 2-1-57:

\$1,000—2308, 7618, 10723, 16152, 16833, 17249, 17250, 17377, 17499, 17502, 17528, 17552, 17553, 17574, 17634, 17635, 19516, 21991, 23587, 23629.

\$500—226, 522, 523, 527, 528, 529.

New South Wales, State of—External Sinking Fund Gold 5% Loan of 1927 Due April 1, 1958:

\$1,000—3340, 5382, 5713, 5951, 18942, 21338.

Norges Kommunal Bank, S. F. Gold—5% 1930 Due 1970:

\$1,000—1584.

North German Lloyd—Sinking Fund 4% Bonds 1933-1947:

\$1,000—6655.

Norway, Kingdom of—6% Bonds 1923 Due 1943:

\$1,000—18507.

Nova Scotia, 4½%, 1927-1952:

\$1,000—3691.

Panama, Republic of—External Secured Sinking Fund Gold 5% Loan Series A Due 1963:

\$1,000—93, 249, 577, 578, 3070, 8660, 9822, 10774.

\$500—69.

Peru, Republic of (National Loan)—External Sinking Fund Gold 6% First Series Due 1960:

\$1,000—1380, 2188, 2189, 2563, 2621, 2623, 2893, 3864, 4400, 4414, 4416, 4422, 4471, 4490, 4575, 4576, 4577, 4609, 4610, 4611, 4613, 4614, 4619, 4633, 4689, 4702, 4729, 4731, 4753, 4790, 4791, 4859, 4882, 4887, 4898, 4904, 4905, 4910, 4919, 4945, 4985, 4989, 5054, 5055, 5059, 5060, 5065, 5108, 5133, 5134, 5182, 5226, 5253, 5258, 5259, 5260, 5261, 5262, 5263, 5264, 5265, 5266, 5281, 5304, 5305, 5306, 5344, 5360, 5377, 5379, 5386, 5427, 5428, 5436, 5453, 5495, 5507, 5528, 5558, 5589, 5604, 5773, 5823, 6210, 6325, 6326, 6941, 7082, 9656, 10164, 10420, 11359, 11404, 11770, 11905, 12083, 12446, 12921, 14325, 14328, 14510, 15191, 15223, 15243, 15490, 15604, 15921, 16376, 16377, 17909, 18542, 18844, 18919, 19259, 19362, 19763, 20605, 20606, 20744, 21337, 21760, 22227, 23621, 24902, 24927, 27485, 28587, 28924, 29190, 29352, 29388, 29393, 30229, 31360, 31954, 32190, 32191, 32192, 32193, 33246, 34183, 35714, 36918, 37186, 39832, 40328, 40756, 42487, 42637, 42731, 44495, 45129, 45461, 45790.

\$500—452, 459, 481, 482, 483, 510, 521, 531, 559, 582, 583, 584, 585, 596, 650, 651, 828, 835, 858, 863, 877, 878, 879, 882, 883, 889, 900, 905, 906, 907, 926, 941, 970, 971, 986, 997.

Peru, Republic of (National Loan)—External Sinking Fund Gold 6% Second Series Due 1961:

\$1,000—11, 14, 58, 69, 70, 77, 87, 88, 137, 142, 148, 158, 159, 217, 218, 228, 239, 293, 294, 313, 314, 315, 435, 436, 459, 501, 502, 516, 540, 570, 571, 582, 598, 600, 610, 611, 647, 648, 656, 662, 670, 702, 720, 733, 753, 769, 779, 839, 858, 863, 870, 883, 886, 887, 947, 1029, 1062, 1066, 1079, 1080, 1081, 1141, 1148, 1149, 1150, 1151, 1156, 1162, 1163, 1231, 1251, 1343, 1344, 1345, 1346, 1347, 1348, 1349, 1483, 1584, 1993, 3562, 4640, 4656, 4657, 4658, 4659, 5286, 6145, 6422, 8007, 8008, 8010, 8473, 9467, 9691, 9746, 10417, 13383, 14871, 15754, 16711, 16712, 16976, 17157, 17158, 20355, 21762.

\$500—15, 68, 79, 85, 86, 87, 88, 125, 177, 181, 193, 252, 285, 290, 293, 333, 368, 398, 1717.

Peru Republic of—Secured Sinking Fund Gold 7% (Tobacco) Loan Series of 1927 Due 1959:

\$1,000—88, 128, 197, 894, 1725, 1837, 2192, 2212, 2216, 2218, 2219, 2221, 2268, 2269, 2287, 2290, 2344, 2365, 2366, 2372, 2383, 2384, 2407, 2409, 2416, 2440, 2497, 2507, 2508, 2536, 2586, 2620, 2621, 2625, 2699, 2750, 2889, 2891, 2899, 2942, 2943, 2952, 2965, 2969, 3004, 3028, 3049, 3052, 3055, 3056, 3057, 3058, 3059, 3083, 3089, 3104, 3111, 3112, 3132, 3152, 3730, 3944, 9513, 9630, 9633, 9813, 9846, 9847, 9865, 9948, 9969, 11038, 11332, 11606, 12359, 12720, 12830, 13061, 13150, 13449, 13756, 14136, 14432.

\$500—305, 322, 326, 346, 374, 396, 399, 402, 474, 481, 506, 509, 535, 563, 576, 579, 587, 705.

Poland, Republic of, 4½% External Sinking Fund Bonds (Formerly 7% Extended From 1947) Due 1968:

\$1,000—1672, 1673, 1674.

Queensland, State of (Australia)—25 Year Sinking Fund External Gold 6%, Due February 15, 1947:

\$1,000—3847.

\$500—1023, 1027.

Rio de Janeiro, State of—External Secured Sinking Fund Gold 6½% of 1929 Due 1959:

\$1,000—5212, 5675.

Rio Grande Do Sul (Brazil)—6% Bonds 1928-1968:

\$1,000—7227.

Ruhr, Gas Corporation—6½% Bonds 1928-1953:

\$1,000—1846A, 7688.

Saarbruecken, City of—6% Bonds 1927. Due 1953:

\$1,000—2807, 2808, 2809.

Sao Paulo, State of—7% Due 1956:

\$1,000—4673.

Sao Paulo, State of—25 Year External 8% Gold Loan of 1925 Due 1950:

\$1,000—68, 501, 564, 580, 764, 769, 796, 927, 930, 931, 932, 933, 934, 958, 959, 960, 961, 968, 969, 1047, 1048, 1049, 1091, 1109, 1123, 1171, 1172, 1226, 1273, 2377, 3182, 3372, 3427, 3675, 5517, 6211, 7836, 8295, 9112, 9113, 9808, 10456, 11170, 12181, 12274, 12275, 13034.

\$500—9, 10, 51, 57, 636, 1507, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1621, 1622, 1623, 1624, 1625, 1626, 1751, 1752, 1753, 1754, 1808, 1809, 1890.

Uruguay, Republic of—External Readjustment 3¾, 4, 4½% Due 1979:

\$1,000—26128, 26129, 26135, 26137, 26138, 26139, 26140, 26141, 31374, 31375, 31376, 31377, 31378, 31379, 35638, 35639, 35679, 35680, 35714, 35715, 35729, 35732, 35738, 35793, 35794, 35877, 35878, 35962, 35977, 36001, 36002, 36003, 36044, 36077, 36078, 36086, 36095, 36360, 36362, 36363, 36435, 36436, 36437, 36440, 36457, 36458, 36449, 36460, 36461, 36836, 37312, 37313, 37314, 37322, 37323, 37327, 37329, 37330, 37344, 37345, 37349, 37350, 37351, 37352, 37378, 37400, 38607, 38608, 39654, 39656, 39657, 39659, 39660.

\$500—2147, 2182, 2183, 2217, 2218, 2229, 2230, 2248, 2249, 2360, 2361, 2362, 2512, 2518, 2519.

Vera Cruz & Pacific Railroad Company—4½% Guaranteed 1st Mortgage Gold Bonds Due 1934:

\$1,000—1305, 1766, 4946, 6322.

Vienna, City of (Wiener Stadtanleihe)—Gold Issue 6% 1927-1952:

\$1,000—12022, 12653, 12953.

\$500—1252.

Westphalia United Electric Power Corporation (Vereingte Elektrizitaetswerke Westfalen A.G.) First Sinking Fund Gold—6% Series A, Due 1953:

\$1,000—7129, 10720, 14341.

Yugoslavia, Kingdom of, Funding 5%, First Series Issued, 1932 Due 1956:

\$500—1245.

\$100—10938, 10939, 10945, 10946, 12912, 16660, 16661, 16662, 16674.

NOTE: For interpretation of § 520.205, see § 520.340 (Public Circular No. 40). [31 F.R. 7333, May 20, 1966; 31 F.R. 8404, June 16, 1966, as amended at 31 F.R. 13001, Oct. 6, 1966; 35 F.R. 11905, July 24, 1970]

§ 520.205b General Ruling No. 5B.

(a) *Prohibitions with respect to domestic scheduled securities.* Except as authorized by license or other authorization specifically referring to this section from the Director, Office of Foreign Assets Control, Treasury Department, or as required or authorized by paragraph (e) of this section, any transfer of, dealing in, or other transaction with respect to, a domestic scheduled security or any obligation, interest, or claim of which such security is evidence, is prohibited.

(b) *Definition.* As used in this section, the term "domestic scheduled securities" shall include all securities wherever located which appear on the list in paragraph (g) of this section, entitled "Domestic Scheduled Securities," including coupons appertaining thereto.

(c) *Notice.* The provisions of this section shall apply whether the parties to any act with respect to domestic scheduled securities prohibited by this section, or persons subject to the requirements with

respect to domestic scheduled securities imposed by this section, do or do not have actual notice or knowledge that such securities are domestic scheduled securities.

(d) *Effect of a prohibited transaction.* Any transaction in violation of the prohibitions contained in paragraph (a) of this section shall be null and void.

(e) *Duty of persons bringing, receiving, or holding domestic scheduled securities.* (1) Domestic scheduled securities brought from a foreign country to the United States by any person shall be forwarded by such person within five (5) days after his arrival in the United States to the Federal Reserve Bank of New York together with a statement in triplicate setting forth the following:

- (i) His name and address;
- (ii) A complete description of the securities;
- (iii) The name and address of the person from whom he received the securities and the date of receipt; and
- (iv) The circumstances under which the securities were received.

(2) Domestic scheduled securities mailed or otherwise sent from a foreign country to any person within the United States shall be forwarded by such person within five (5) days after receipt thereof to the Federal Reserve Bank of New York together with the above-specified statement in triplicate.

(3) Domestic scheduled securities held on January 20, 1951, by any person within the United States (whether for himself or for any such person) shall within 30 days thereafter be forwarded by such person to the Federal Reserve Bank of New York together with the above-specified statement in triplicate. Any such person who on January 20, 1951, held domestic scheduled securities as security for an obligation owing to him shall not be required to forward the securities to the Federal Reserve Bank of New York, but shall be required to file the above-specified statement in triplicate with the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220, together with a statement of the circumstances under which the securities are being held.

(4) Domestic scheduled securities received by any person within the United States (whether for himself or for any other person) shall be forwarded by such person within five (5) days after receipt thereof to the Federal Reserve Bank of New York together with the above-specified statement in triplicate.

(5) Any person required by the provisions of subparagraph (3) or (4) of this paragraph to forward securities to the Federal Reserve Bank of New York may, instead, return such securities to the person from whom he received them, if the latter is within the United States. The person initiating such return shall file a report with the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220, giving the name and address of the person to whom he makes such return and he shall advise such person that they are domestic scheduled securities which should be deposited with the Federal Reserve Bank of New York pursuant to this ruling unless they are returned with a similar notice to the person in the United States from whom they were received. The last person in the United States to whom such securities are returned under this subparagraph shall forward them to the Federal Reserve Bank of New York, together with the above-specified statement in triplicate with respect to his original

receipt of the securities. In case securities are returned under the rules of a securities exchange, an association of securities dealers, or a similar organization, the last member of an exchange or similar organization or dealer to whom such securities are returned under such procedure, if he is not the last person to whom such securities are returned hereunder, shall file with the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220, the above-specified statement in triplicate with respect to his original receipt of the securities together with the date on which he returned such securities to the person from whom he received them.

(6) Domestic scheduled securities held by any person not within the United States shall be deposited with the Federal Reserve Bank of New York together with the statement specified in subparagraph (1) of this paragraph on or before July 31, 1951.

(7) Acts or transactions required or authorized by the provisions of this paragraph are licensed to the extent, and only to the extent, of permitting compliance therewith.

(f) *Disposition of securities delivered to Federal Reserve Bank of New York.* The Federal Reserve Bank of New York shall act only as fiscal agent of the United States under this section, and shall receive and hold securities delivered to it pursuant to this section as such fiscal agent, subject to the further order of the Director, Office of Foreign Assets Control. Applications for release of securities so held may be filed with the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220.

(g) *Appendix.*

DOMESTIC SCHEDULED SECURITIES

BONDS

American Foreign Power Company, Inc., Debenture Gold 5% Due 2030:
\$1,000—46003, 46048, 46049, 46512.

\$500—855.

American I. G. Chemical Corporation 5½% Bonds 1929/49:
\$1,000—10189.

American Smelting & Refining Company 5% 1st Mortgage 30-Y Bonds:
\$1,000—87.

Associated Gas & Electric Corporation Sinking Fund Income Debenture 4½% Due 1978:

\$1,000—402, 425, 621, 959, 990, 1042, 1187, 1188, 1316, 1473, 2118, 2413, 2482, 2844, 3057, 3059, 3603, 3691, 3692, 3748, 3796, 3893, 3904, 3905, 3947, 3993, 4069, 4074, 4138, 4139, 4184, 4185, 4332, 4376, 4357, 4365, 4374, 4379, 4380, 4381, 4382, 4383, 4384, 4385, 4862, 5316, 5317, 5333, 5777, 5778, 6196, 6197, 6653, 6659, 6822, 6825, 6856, 7119, 7141.

Associated Gas & Electric Corporation Sinking Fund Income Debenture 5½% Due 1977:

\$1,000—3272, 4273, 4286, 7293, 7545, 9491, 9904, 10264, 14186, 14455, 14974, 15005, 15324, 18034, 18490, 18544, 23333, 24073, 25055, 25420, 25495, 26348, 26588, 27510, 29238, 30039, 32684, 33483, 34283, 34284, 34290, 34585, 36045.

Atchison, Topeka and Santa Fe Railway Company (The)—Convertible Gold 4% of 1905 Due 1955:

\$1,000—799, 32495, 36310, 36311, 48082.

Atchison, Topeka and Santa Fe Railway Company (The)—Convertible Gold 4% Due 1960:

\$1,000—38234.

Atchison, Topeka and Santa Fe Railway Company (The)—General Gold 4% Due 1905:

\$1,000—918, 1297, 1865, 2531, 2917, 3432, 3952, 5466, 5721, 6728, 7445, 10016, 11368, 13612, 17965, 18507, 23191, 25016, 26636, 32365, 34564, 35210, 36019, 38088, 38151, 49523, 53302, 56750, 59190, 67164, 67508, 72477, 72931, 73024, 73255, 74733,

77966, 78273, 79437, 79906, 80845, 84327, 89953, 89954, 91051, 93671, 96519, 99516, 117110, 117700, 123141, 123787, 125036, 125520.

\$500—2314, 5257, 5465, 5729, 6654, 8272, 10252, 15734, 35513, 37540, 38622, 41072, 41074, 42239, 42391.

Baltimore and Ohio Railroad Company (The)—4% Bonds, 50-Y, Due 1948:
\$1,000—50081, 50082, 50083.

Baltimore and Ohio Railroad Company (The)—4½% Bonds, 1930-60:
\$1,000—3113.

Baltimore and Ohio Railroad Company (The)—5% Bonds, 1926/2000:
\$1,000—25263.

Bethlehem Steel Corporation 3½% Bonds 1937/52:

\$1,000—28454, 28455, 36724, 43967.

Bethlehem Steel Corporation 4¼% Bonds 1935/60 Series D:

\$1,000—DM7290, DM20122.

Central Pacific Railway Company—First Refunding Gold 4% Due 1949:

\$1,000—801, 1917, 3785, 4187, 5437, 5479, 7255, 7624, 9246, 9253, 9993, 10808, 13341, 13469, 13521, 14186, 14685, 14973, 16049, 19147, 19572, 26382, 30102, 31351, 31814, 33081, 33278, 34274, 60258, 77471, 77739, 80487, 85166, 89119, 89129.

\$500—2293, 7810, 8159, 8326, 12174.

\$100—758, 1260, 1350, 1891, 1957, 1958, 2127.

Chesapeake & Ohio Railway Co. (The) General Gold 4½% Due 1992:

\$1,000—46884.

Chicago & Erie Railroad Co.—First Gold 5% Due 1982:

\$1,000—2162, 6495, 9064.

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.—50 Year Mortgage 5% Series A, Due 1975:

\$1,000—2501, 3073, 3314, 3966, 4183, 4296, 4863, 6717, 6718, 6719 11166, 14027, 15291, 15293, 15294, 15631, 15673, 16000, 16495, 16712, 17409, 17579, 20217, 20499, 21994, 22091, 22112, 24111, 24560, 26067, 27499, 29880, 32257, 33834, 34456, 35384, 35792, 35793, 36877, 37458, 38396, 38736, 38749, 38941, 38945, 39019, 39032, 39179, 39180, 39205, 39298, 39316, 39374, 39386, 39411, 39933, 40888, 41765, 43562, 46680, 48398, 49953, 49956, 50459, 53410, 55463, 55464, 55510, 55533, 56437, 56500, 57517, 59356, 61246, 63114, 63115, 63982, 64409, 65265, 65266, 66284, 66920, 67355, 68026, 68027, 68363, 68364, 68585, 70021, 71607, 74394, 75967, 76562, 77500, 78982, 79674, 80235, 82701, 83024, 83515, 84086, 84087, 84088, 84089, 84090, 84091, 84092, 84093, 84094, 85433, 85775, 86421, 86427, 87037, 88565, 89290, 89741, 89779, 89782, 89818, 90308, 90581, 90968, 92950, 93163, 103394, 124560.

\$500—1615, 1854, 3692.

\$100—22525, 22526, 39295, 39296.

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.—Convertible Adjustment Series A 5%, 2000:

\$1,000—4, 11, 683, 1172, 1343, 2012, 2116, 2117, 2747, 2871, 2902, 2903, 2904, 3093, 3330, 4177, 5168, 5193, 5937, 6044, 6045, 6482, 7631, 7822, 8303, 8309, 8493, 8694, 8698, 8970, 9004, 9006, 9179, 9195, 9573, 10598, 11436, 11615, 12071, 12649, 13885, 14014, 15068, 15765, 16334, 16529, 16568, 16888, 17022, 17606, 17893, 18109, 18191, 18192, 18200, 18230, 18244, 18269, 18326, 18337, 18344, 18462, 18478, 18535, 18537, 18690, 18730, 18955, 19481, 20029, 20121, 20244, 20269, 20318, 20329, 20375, 20376, 20572, 20653, 20815, 20836, 20938, 21216, 21229, 21242, 21245, 21637, 21672, 21840, 21916, 22288, 22377, 22380, 22406, 22434, 22561, 22825, 22994, 23034, 23772, 23846, 24025, 24414, 24415, 24554, 24754, 25180, 25332, 25911, 25916, 26112, 26130, 26177, 26196, 26199, 26806, 26817, 27098, 27235, 27496, 27600, 27778, 28074, 28161, 28186, 28501, 28689, 28797, 28948, 29008, 29067, 29093, 29614, 29749, 29847, 29869, 29929, 30074, 30094, 30160, 30255, 30705, 30725, 31393, 31632, 31947, 32178, 32222, 37394, 37423, 37494, 39565, 39581, 39619, 39936, 40109, 40343, 40394, 40395, 40396, 40397, 40505, 41516, 41712, 41713, 41922, 41924, 42090, 42093, 42206, 42324, 42371, 42476, 42623, 42831, 43289, 43391, 43524, 43740, 44451, 44633, 44664, 44784, 45045, 45046, 45103, 45139, 45171, 45248, 45289, 45816, 45824, 45825, 45860, 45954, 46066, 46350, 46518, 46637, 47146, 47278, 47324, 47360, 47507, 47604, 47701, 47704, 48090, 48580, 48586, 48843, 48884, 48957, 49088, 49435, 49462, 49566, 49583, 49650, 49674, 49708, 49750, 49768, 50548, 50651, 50984, 51157, 51177, 51796, 51842, 51944, 52162, 52591, 53005, 53414, 53543, 53670, 53686, 54110, 54250, 54282, 54456, 54461, 54649, 54674, 54688, 55008, 55016, 55133, 55376, 55648, 55803, 55968, 56431, 56492, 56533, 56554, 56680, 57580, 58155, 58427, 58630, 58798, 58800, 60052, 60724, 61091, 62158, 62335, 62525, 62549, 62918, 63259, 63362, 63570, 63571, 63935, 64060, 64071, 64072, 64197, 64661, 65369, 65550, 65662, 65674, 65742, 65746, 65824, 66036, 66474, 66492,

66771, 66935, 66973, 67032, 67038, 67120, 67578, 67726, 67843, 67892, 67931, 68457,
 68614, 68999, 69049, 69213, 69369, 70338, 70498, 70599, 70713, 70775, 70871, 71021,
 71074, 71100, 71112, 71779, 71812, 72189, 72281, 72316, 72408, 72834, 72978, 73332,
 73628, 73998, 74682, 74693, 74960, 74993, 75188, 75738, 75739, 76409, 77128, 77195,
 78462, 78465, 78466, 78467, 78753, 78891, 78945, 79057, 79149, 79170, 79211, 79233,
 79484, 79722, 79812, 79939, 80438, 80559, 80813, 81185, 81341, 81367, 81508, 81514,
 81577, 81751, 81767, 81768, 81955, 82061, 82086, 82087, 82379, 82398, 82521, 83776,
 84169, 84883, 85600, 86128, 86170, 86317, 88402, 85935, 90412, 91574, 93042, 93685,
 93872, 94241, 94247, 94250, 94251, 94252, 94253, 94254, 94255, 94256, 94257, 94258,
 94259, 94268, 94544, 94617, 95012, 95423, 96104, 96240, 96284, 96457, 96515, 96524,
 96645, 96718, 97891, 98558, 100041, 100117, 100135, 100289, 100643, 102092, 102279,
 102902, 103059, 103269, 103510, 103518, 103519, 104425, 104479, 104512, 104756,
 105623, 105759, 105932, 106218, 106839, 109243, 109317, 109472, 109786, 110079,
 110717, 111137, 111221, 111222, 112870, 113085, 113233, 113619, 113700, 113705,
 114208, 114589, 114687, 114737, 114857, 115296, 115387, 116473, 116825, 116826,
 117300, 117829, 118056, 118237, 118508, 118605, 118721, 119790, 119932, 120085,
 120250, 120260, 120522, 120542, 120909, 120953, 121145, 121169, 121479, 122247,
 122843, 122965, 122991, 123874, 124012, 124188, 124526, 124644, 124785, 125504,
 125806, 125962, 126334, 126335, 126353, 126393, 126412, 126527, 126880, 127276,
 127683, 127850, 128214, 128237, 128468, 128689, 128773, 128782, 129244, 129245,
 129246, 129456, 129499, 129655, 129673, 129921, 130488, 130807, 131407, 132887,
 133564, 133567, 133780, 133822, 133994, 134248, 134534, 134721, 135763, 136731,
 136772, 137254, 137734, 139444, 139479, 139770, 139902, 139931, 140688, 141115,
 141177, 141476, 141639, 141701, 141750, 141787, 141874, 142225, 142300, 142336,
 142338, 142375, 144013, 144413, 144419, 144550, 144715, 144809, 145256, 145297,
 145648, 145915, 145942, 145943, 146066, 146101, 146110, 146370, 146697, 147106,
 147113, 147644, 147763, 148024, 148943, 149290, 149313, 149314, 149315, 149454,
 149959, 150851, 150932, 151138, 152035, 152049, 152071, 152081, 152465, 153559,
 153828, 154091, 154092, 154093, 155792, 156342, 156343, 156620, 156924, 157881,
 158646, 159022, 159061, 159062, 159291, 159406, 160372, 161138, 161165, 161641,
 162505, 163734, 164255, 164256, 164278, 164694, 164806, 165254, 165419, 165435,
 165645, 165689, 165923, 166600, 166815, 167093, 167547, 167885, 168023, 168372,
 168413, 168763, 169015, 169026, 169568, 169691, 169969, 170020, 170021, 170403,
 170629, 170888, 170962, 170963, 170969, 171256, 171257, 171258, 171259, 171260,
 171403, 171500, 171693, 171741, 171791, 172055, 172259, 172261, 172390, 172711,
 173144, 173148, 180377, 180521, 180595, 180854, 180990, 181324, 181794, 181899,
 182086, 182245, 182418, 182507.

\$500—234, 293, 476, 710, 1113, 1387, 3698, 4319, 4462, 4799, 5388, 5687, 5918, 6117,
 6495, 7414, 7685, 7700, 7778, 7779, 7852, 8603, 9010, 9130.

Chicago, Rock Island & Pacific Railway Company—First and Refunding Mortgage 4% 1934:

\$1,000—3584, 26093, 36938.

Chicago, Rock Island & Pacific Railway Company—4% Bonds 1927/52:

\$1,000—14765.

Chicago, Rock Island & Pacific Railway Co. Convertible Gold 4½% 1930/60:

\$1,000—1698, 1699, 1700, 21488.

Cities Service Company—Convertible 5% Gold Debenture, 1950:

\$1,000—9960, 15450, 23489, 23638, 23691, 28666, 47264, 58406, 74444, 76525, 89930, 101172, 106178.

Cities Service Company—5% Gold Debentures, 1958:

\$1,000—617, 1185, 1426, 3740, 4018, 4244, 5561, 6104, 6302, 6303, 7726, 7768, 8494, 8722, 8723, 8791, 9840, 10192, 10351, 11158, 11824, 12442, 12583, 13776, 14807, 14879, 15309, 15763, 16067, 16068, 16069, 16070, 16228, 18514, 19011, 19120, 19455, 19883, 20595, 21421, 21470, 21538, 22028, 24505, 24569, 24965, 26548, 26549, 26550, 26790, 27035, 27237, 27522, 30600, 30681, 30817, 34431, 34629, 35654, 38594, 38652, 38860, 39179, 40007, 40457, 42401, 42402, 42462, 44763, 45613, 46472, 46830, 48399, 48524, 48784.

\$500—107, 181.

Cities Service Company—5% Gold Debenture, 1963:

\$1,000—12570.

Cities Service Company—Refunding 5% Gold Debenture, 1966:

\$1,000—1005, 1724, 2564, 2565, 2927, 3219, 4026, 4184, 4906, 7228, 7229, 7787, 8112, 8976, 9012, 9864, 10366, 10820, 11011, 11074, 11847, 11963, 13085, 13433, 16526, 16832, 17498, 17699, 17866, 17921, 17999, 18029, 18031, 18393, 18772, 18959, 19067, 20283.

\$500—781, 1662, 2302, 3247.

Cities Service Company 5% Gold Debenture, 1969:

\$1,000—306, 460, 556, 603, 653, 943, 1158, 1461, 6035, 7809, 9682, 10958, 11397, 11465, 11527, 12734, 12766, 14123, 16158, 16495, 16645, 16977, 17846, 17995, 20328, 21329, 21388, 22426, 22505, 22663, 22688, 24085, 24086, 24087, 24088, 24089, 24249, 25028, 25298, 25304, 26464, 27049, 29658, 29969, 30930, 3304, 32236, 34932, 35713, 36172, 37550, 38584, 38886, 39012, 39775, 39777, 39830, 40653, 40654, 41522, 41597, 41651, 41666, 41697, 41847, 41848, 41849, 41877, 41897, 41902, 41977, 42469, 42671, 42743, 42767, 42880, 42881, 43012, 43105, 43334, 44533, 44687, 45314, 45750, 45862, 46986, 47089, 47307, 47616, 47842, 48114, 48148, 48222, 48285, 48966, 49031, 49068, 49934.

Cities Service Power and Light Company—Debenture 5½%, Due 1949:

\$1,000—1777, 4834.

Cities Service Power and Light Company—Debenture 5½%, Due 1952:

\$1,000—6317, 9745, 17671, 17994, 18572, 18589, 20348, 43135, 44536.

Cuba Company (The)—3% (Formerly 6% Bonds 1905 Due 1955):

\$1,000—2592, 3484, 3782, 3884.

Cuba Railroad Company (The)—First Gold 5% Due 1952:

\$1,000—506, 977, 1363, 1439, 1570, 1716, 2123, 2419, 2731, 2732, 2758, 2759, 2760, 2761, 2762, 2763, 2764, 3363, 3385, 3567, 3894, 4395, 5378, 5483, 6099, 6251, 6282, 6634, 6636, 6849, 6993, 7119, 7859, 7893, 7914, 7915, 8308, 8417, 8953, 9694, 9737, 10050, 10085, 10359, 10528, 10666, 10698, 10934, 11379, 11525, 11847, 11865, 12068, 12265, 12374, 12445, 12650, 12683, 13056, 13100, 13545, 13629, 12830, 13946, 14369.

Cuba Railroad Company—Improvement and Equipment Gold 5% Due 1960:

\$1,000—38, 1348.

Dallas and Waco Railway Company—First Gold 5% Due 1940:

\$1,000—564.

Delaware & Hudson Company—4% Bonds 1906 Due 1943:

\$1,000—587, 8856, 11067, 11068, 15436, 25345.

Denver & Rio Grande Railroad Company—First Consolidated Gold 4% Due 1936:

\$1,000—13202, 17275, 24150, 26544.

\$500—208, 214.

Denver and Rio Grande Railroad Company—First Consolidated Gold 4½% Due 1936:

\$1,000—36927.

Denver & Rio Grande Western Railroad General Gold 5% Due 1955:

\$1,000—19514, 19538, 19621, 19622, 22219, 23096, 23097, 26045, 26091, 26092, 26093, 26094, 26095, 26096.

\$500—465, 466, 467, 468, 469, 470, 1255, 1302, 1364, 1375, 1559, 1676, 2099.

\$100—556, 557, 558, 2130, 2140, 2141, 2142, 2143, 2144, 2145, 2703, 2906, 2907, 2988, 2989, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3125, 3126, 3127, 3128, 3240, 3291, 3292, 3293, 3294, 3304, 3344, 3345, 3376, 4886, 4887, 4888, 5171, 5172, 5705, 5972, 6014, 6015.

Des Moines & Fort Dodge Railroad—First Gold 4% 1925—Due 1935:

\$1,000—1810, 1811, 3020.

Des Moines & Fort Dodge Railroad—4% Bonds (Certificates of Deposit):

\$1,000—T.M. 1829-774, T.M. 1831-776, T.M. 1887-1997, T.M. 1888-1998.

Florida Central & Peninsular Railroad Company—First Consolidated Gold 5% Due 1943:

\$1,000—2109.

Grand Trunk Western Railway Company—First Gold 4% Due 1950:

\$500—428, 860, 862.

Havana Electric Railway Company—5% Consolidated Mortgage Gold Bonds Due 1952:

\$1,000—8669, 8711, 9151, 9152.

Hudson & Manhattan R.R. Co.—Adjustment Income Gold Bonds 5% 1913/57:

\$1,000—20034.

Illinois Central Railroad Company—Collateral Trust Gold 4% Due 1952:

\$1,000—1238, 1696, 1792, 2330, 4768, 5933, 6038, 7041, 7438, 7948, 7949, 9265, 12660, 12661, 12833.

\$500—15995, 15996.

Illinois Central Railroad Company—Mortgage & Collateral, Gold 4% Due 1953:

\$1,000—578, 980, 2555, 3030, 3423, 3946, 4230, 4781, 5524, 9283, 9759, 11355, 12474, 12572, 15710, 16891, 19660, 19962, 19968, 20194.

\$500—22807, 22808, 25117, 27417, 27996.

International Hydro-Electric System—Convertible Debenture Gold 6% Due 1944:

\$1,000—1644, 1806, 5596, 5702, 5720, 7458, 8009, 8151, 8409, 9934, 11542, 20537, 21002, 21033, 21038, 21094, 21111, 21842, 22120, 22794, 22857, 23897, 24014, 24421, 24481, 24523, 24778, 25145, 26798, 26939, 27249, 27803, 28270, 28392, 28524, 28529, 29861.

International Mercantile Marine Co., Ltd.—First and Collateral Trust Gold 6% Due 1941:

\$1,000—337, 339, 340, 521, 522, 524, 526, 1374, 1432, 1570, 2171, 3410, 4258, 4265, 4308, 4489, 4579, 4601, 4602, 4603, 4604, 7869, 13289, 14031, 19606, 21311, 21392, 26918, 26930, 27699, 29973, 30263, 30098, 36129, 36130.

\$500—258, 469, 512, 563, 700, 745, 752, 1000, 1211, 1244, 1577, 1974, 1977, 2177, 2380, 2655, 2899, 3051, 3092, 3344, 3423, 3584, 3585, 3586, 3649, 3650, 3815, 3934, 4100, 4418, 4879, 7778.

International Power Securities Corporation—Secured Gold 6½%, Series C Due 1955:

\$1,000—179, 1734, 1740, 1741, 1746, 1788, 1848, 1873, 1879, 1902, 1947, 1951, 3898, 7361, 9176.

International Railways of Central America, First Gold 5% Sterling Issue, Due 1972:

£20—A1071, 4514, 5995, 6954, 6955, 8988.

International Telephone & Telegraph Corporation—4½% Due 1952:

\$1,000—19320, 31983.

International Telephone & Telegraph Corporation—Debenture Gold 5% Bonds 1930 Due 1955:

\$1,000—22427.

Kansas City Fort Scott & Memphis Railway Co.—Refunding (Now First) Gold 4% Due 1936:

\$1,000—1864, 7594.

Kansas City Southern Railway—3% 1st Mortgage Gold Due 1950:

\$1,000—80, 359, 476, 646, 1092, 2028, 2097, 2378, 2423, 3139, 3407, 4810, 5652, 5900, 5956, 6446, 7084, 7469, 10525, 10723, 10744, 10784, 11244, 11497, 11765, 11933, 13502, 14404, 14546, 14964, 15261, 15532, 15762, 17275, 18156, 18331, 19951, 22334, 22335, 22419, 22839, 22973, 23223, 23772, 26265, 27033, 27288, 28813.

Kansas City Southern Railway Co.—Refunding & Improvements Mortgage Bond 5% Due 1950:

\$1,000—861, 1647, 2830, 3165, 3298, 3407, 7866, 7951, 8425, 8437, 8439, 8689, 9230, 9387, 9960, 10467, 10781, 12710, 14713, 17058, 17338.

Kansas City Terminal Railway Co.—First Gold 4% Due 1960:

\$1,000—24901, 33450, 34560, 34561.

Long Island Railroad Co.—4% Refunding, Due 1949:

\$500—682.

Louisville & Jeffersonville Bridge and Railroad Co.—First Gold 4% Due 1945:

\$1,000—970, 1785, 1814, 1983, 2429, 3193.

Louisville & Nashville Railroad Co.—3¾% Refunding 1921/2003:

\$1,000—16071, 16072, 17073.

Louisville & Nashville Railroad Co.: Mobile and Montgomery Ry. First Gold 4½% Due 1945:

\$1,000—804, 1280.

Louisville & Nashville R.R. Co. Southeast & St. Louis Division—Second (Now First) 3% Due 1980:

\$1,000—2, 787, 1046, 1569, 1744, 2134, 2136.

Minneapolis, St. Paul & Sault Ste. Marie Railway Company 4% Bonds 1888/1938:

\$1,000—2387, 23147, 25314, 36781.

Missouri-Kansas-Texas Railroad Company—Prior Lien Gold 4% Series B Due 1962:

\$1,000—9014.

\$500—1308, 1313, 1411.

\$250—487, 841.

Missouri-Kansas-Texas Railroad Company First Gold 4% Due 1990:

\$1,000—628, 2708, 3106, 3419, 5125, 6200, 7392, 9923, 10250, 11532, 11597, 12595, 15304, 17118, 17427, 19374, 20042, 20135, 21037, 21097, 21168, 24598, 25429, 26763, 27583, 27759, 28315, 28724, 29197, 29255, 29267, 29314, 29588, 31726, 32539, 32749, 32789, 32892, 33194.

\$500—37340, 38471, 41005, 43344.

Missouri-Kansas-Texas Railroad Company—Prior Lien 5% Series A Due 1962:
\$1,000—20248, 29485, 30865, 30866, 30867, 31199.

\$500—2205, 2261, 2562, 2573.

\$250—139, 1131, 1779.

Missouri-Kansas-Texas Railroad Company—Cumulative Adjusted Mortgage Gold 5% Series A Due 1967:

\$1,000—46839, 47607.

\$500—2887, 3655, 3854, 3855, 4393, 4395, 4404.

\$100—6052.

Missouri Pacific Railroad Company 4% General Mortgage Gold Bonds Due 1975:

\$1,000—1378, 1398, 1439, 1760, 2259, 2691, 2806, 3518, 4285, 4665, 4839, 5622, 5988, 6225, 6809, 7042, 7045, 7052, 8344, 8431, 8447, 8972, 9208, 9247, 9250, 9465, 9949, 10485, 10581, 10710, 10822, 11087, 11158, 11189, 11363, 11475, 11732, 11785, 11956, 12053, 12247, 12248, 12331, 12371, 12448, 12698, 12743, 12749, 12919, 13138, 13394, 14093, 14357, 14439, 14767, 15112, 15500, 15747, 16367, 17148, 17295, 17346, 17797, 17901, 18054, 19136, 19315, 19574, 19753, 20292, 20427, 20439, 20471, 20950, 21680, 22335, 22428, 23084, 23398, 23385, 23387, 23390, 23436, 23542, 23771, 24597, 24908, 24909, 24910, 25069, 25152, 25229, 25339, 25350, 25555, 25738, 26180, 26205, 26372, 26441, 27505, 27506, 27911, 28112, 28453, 28494, 29050, 29243, 29353, 29471, 29695, 29788, 29889, 29934, 30246, 30506, 30678, 31268, 31541, 31578, 31666, 31711, 31773, 31799, 31842, 32290, 32548, 32740, 33161, 33274, 33281, 33349, 33736, 33783, 33909, 33974, 34370, 34497, 34699, 34709, 35100, 35373, 35374, 36142, 36234, 36342, 36889, 37177, 37929, 38002, 38226, 38428, 38654, 40166, 40213, 40414, 40422, 40425, 40570, 41411, 41609, 42073, 42075, 42371, 42841, 43123, 44067, 44476, 45600, 45834, 46316, 46482, 46598.

\$500—437, 710, 1287, 1501, 1640, 1667, 1754, 3008, 3009, 3042, 3075, 3076, 3114, 3115, 3239, 3240, 3242, 3481, 3538, 3697, 3727, 3991, 4158, 4566, 4601.

Missouri Pacific Railroad Company—First & Refunding Gold 5% Series G Due 1978:

\$1,000—4181, 8478.

Missouri Pacific Railroad Company—5½% Bonds 1929/49:

\$1,000—27905.

New York Central and Hudson R.R.—Gold 3½% Due 1997:

\$1,000—5507, 30216, 56526.

New York Central Railroad Company (The)—4½% Bonds 1913 Due 2013 Series A:

\$1,000—58717, 58718, 58719.

New York City of (Rapid Transit S.F.)—4½% 1915/65:

\$1,000—6704, 6714, 20735.

New York Lackawanna & West. Ry.—4% Series A 1922 Due 1973:

\$1,000—A5926.

New York, Pennsylvania & Ohio Railroad—4¼% Bonds 1880 Due 1950:

\$1,000—5355.

\$500—2294, 4935.

New York Telephone Company—4½% Bonds 1909 Due 1939:

\$1,000—26656, 47512.

Norfolk & Western Railway Company—First Consolidated Gold 4% Due 1926:

\$1,000—5686, 6947, 16393, 16728, 16730, 16790, 17023, 17649, 17661, 17991, 18339, 19006, 19200, 19557, 19605, 19661, 20033, 20034, 20035, 20036, 20056, 21213, 21419, 22280, 22283, 22381, 22384, 22984, 25557, 26125, 27160, 27512, 27737, 27868, 27877, 27928, 28637, 29077, 29410, 29454, 29562, 29638, 31057, 31131, 31643, 31646, 34037, 34546.

\$500—3396, 3674, 3889, 3951, 3952, 4280, 4393, 4542, 4543, 4557, 4577, 4588, 4747, 4748, 4760, 4775, 5106, 6549, 6673, 7049, 7113, 7213, 7543, 7562, 7563, 8135, 8287, 9351.

Northern Pacific Railway Company—Prior Lien Gold 4% Due 1997:

\$1,000—5463, 9870, 61059, 89945.

Oregon-Washington Railroad and Navigation Company First and Refunding Mortgage Gold 4% Due 1961:

\$1,000—466, 51508.

Pacific Gas and Electric Co.—First & Refunding Mortgage, Series G, 4% Due December 1, 1964:

\$1,000—M93376.

Panhandle Eastern Pipeline Co.—First Mortgage & First Lien, 4% Bonds 1937/52:

\$1,000—A. AM 6704, A. AM. 6705, A. AM, 6706, A. AM. 6707.

- Pennsylvania Railroad Company—40 years Gold Debenture $4\frac{1}{2}\%$ Due April 1, 1970:
\$1,000—43444.
 Philippine Railway Company—First Sinking Fund Gold 4% Due 1937:
\$1,000—79, 102, 203, 227, 308, 343, 544, 1263, 1368, 1549, 1595, 1719, 1963, 2103, 2379, 2423, 2479, 3186, 3208, 3330, 3461, 3677, 3732, 3882, 3909, 4307, 4334, 4397, 4681, 4706, 4858, 5047, 5078, 5285, 5332, 5890, 6086, 6313, 6405, 6497, 6543, 7243, 7334, 7470, 7478, 7480, 7705, 7836, 8036, 8399, 8422, 8438, 8456.
 Republic Steel Corporation— $4\frac{1}{2}\%$ Bonds Series B, 1936/61:
\$1,000—BM14807, BM14808, BM14809, BM14810, BM14811.
 St. Louis-San Francisco Railway Company—4% Mortgage Bonds, Prior Lien, Series A:
\$1,000—13887, 77838, 86441.
\$500—3504.
 St. Louis-San Francisco Railway Co.—5% Prior Lien Series, B.
\$1,000—4775.
 St. Louis Southwestern Railway Co.—4% First Loan 1890. Due 1989.
\$1,000—861, 1124, 16270.
 San Antonio & Aransas Pass Railroad Company—4% First Mortgage Bonds 1893/1943:
\$1,000—2835, 8312, 8314.
 Seaboard Airline Railway—Ref. Gold 4% 1909/59:
\$1,000—14002, 14003, 14009, 14240, 16419.
 Seaboard Air Line Railway—Adjustable Mortgage Gold 5% 1909/49:
\$1,000—19356.
 Southern California Edison Company, Ltd.—First and Refunding $3\frac{3}{4}\%$ Bonds, 1935/60:
\$1,000—4942, 4943, 4944, 41619, 41620.
 Southern Pacific Co.—4% Collateral Trust Gold Bonds Issued 1899. Due 1949:
\$1,000—565, 695, 1546, 1639, 3017, 3133, 3134, 3184, 4073, 4160, 5741, 5742, 5993, 9283, 11219, 12090, 13587, 13763, 13864, 14899, 15488, 15507, 16240, 16473, 19309, 21673, 21931, 23092.
\$500—107, 136, 1907, 2100, 2412, 2601, 3767, 3920, 4614, 4654, 4655, 5120, 6601, 6605, 6718, 7940, 8777, 9825.
 Southern Pacific Company— $4\frac{1}{2}\%$, 40-Year Gold Bonds. Due 1969:
\$1,000—13245, 13438, 15408, 29800, 30487, 31676, 32488, 37397, 43691, 52369, 52897, 55559, 58873, 63129, 63676.
 Southern Pacific Company—Gold $4\frac{1}{2}\%$ Due 1981:
\$1,000—12245, 12286, 12552, 28506, 37841, 45804.
 Southern Pacific Company San Francisco Terminal, 4% First Mortgage Bonds 1910 Due 1950:
\$1,000—2524, 2554, 2942, 3154, 6016, 6522, 6523, 6524, 8706, 9196, 9254, 9334, 9855, 9856, 10382, 11226, 12440, 12621, 12666, 13181, 13390, 13422, 14212, 14231, 14726, 14730, 15134, 15198, 15285, 15370, 15371, 15372.
\$500—31, 32, 33, 34, 35, 68, 910, 1161, 3057, 5060, 5795, 5953, 7355, 7666, 8388, 8390, 8623, 8659, 10476, 11887, 11888, 11916, 12064, 12067, 12070, 12073, 12242, 12243, 13592, 13934, 13935, 13969, 14295, 14296, 15170, 16089, 16090.
\$100—3368, 11958, 11959.
 Southern Pacific Railroad Company—First Refunding Mortgage 4% Bonds Due 1955:
\$1,000—63, 886, 2061, 2362, 3266, 4356, 4769, 4875, 7682, 13947, 14488, 15213, 16697, 17846, 19981, 26649, 27549, 28115, 28518, 30288, 32836, 35777, 35779, 36078, 42795, 45578, 50162, 50323, 50569, 53889, 55520, 56068, 57125, 57839, 73992, 73431, 75751, 81008, 82091, 87751, 89862, 89865, 90830, 91743, 91745, 95273, 95696, 105640, 105649, 111808, 117031, 128040, 129416.
\$500—655, 951, 3151, 4311, 4313, 4314, 4693, 5495, 6804.
 Southern Railway Company—4% Development and General Mortgage Bonds Due 1956:
\$1,000—604, 1177, 5693, 5642, 5895, 6524, 6882, 6883, 12584, 15952, 16331, 16457, 17481, 20652, 23141, 23276, 24606, 26352, 30664, 30793, 32512, 32889, 35049, 36326, 37995, 38295, 40108, 42719, 42759, 42904, 44020, 46205, 49111, 49723, 49798, 51101, 51201, 52673, 55193, 55646, 58867.
 Southern Railway Company—5% First Mortgage & Collateral Trust Bonds Due 1994:
\$1,000—14809, 55929.

Standard Power & Light Corporation 6% Bonds 1927 Due 1957:*\$1,000—1063, 4324, 4687.***Studebaker Corporation (The)—Convertible Debenture 6%, 1945.***\$100—3635, 3636, 3838, 3839, 3840, 3841, 3947, 3956, 3959, 3960.***Studebaker Corporation (The)—Convertible Debenture, Scrip Certificates:***\$22.50—483.**\$3.33—278.***Union Pacific Railroad Company—3½% Bonds 1936/71:***\$1,000—12030, 12031, 18146, 21125.***Union Pacific Railroad Company—First Gold, 4% of 1947:***\$1,000—809, 6690, 7936, 10950, 14246, 16179, 20719, 21778, 23784, 26126, 31111, 33945, 36061, 37039, 38242, 39912, 41137, 43459, 44782, 45958, 48889, 49831, 50486, 51089, 53217, 53816, 55232, 55952, 56455, 58409, 59177, 60210, 60599, 61144, 61660, 62257, 63462, 67179, 73164, 77691, 78364, 78372, 78374, 78930, 79156, 79779, 81026, 85040, 85083, 86057, 87370, 89506.**\$500—314, 572, 573, 1827, 3436, 3855, 4443, 4834, 5175, 5971, 6360, 7614, 7801, 9224, 10101, 10165, 10172, 10668, 13274, 13366, 14426, 17192.***Union Pacific Railroad Company, First Lien and Refunding Gold 4% 1908 Due 2008:***\$1,000—53300.***Western Pacific Railroad Company—5% First Mortgage Bonds Due 1946:***\$1,000—19037, 19038.***Winston-Salem Southbound Railway Company—4% First Mortgage Gold Bonds Due 1960:***\$1,000—1853, 1854.***STOCKS****Corporate Trust Shares Series AA (Modified) Distributive Type:***100 share certificate—8563.***Corporate Trust Shares Accumulative Series (Modified):***10 share certificate—17300.***North American Trust Shares 1953 Issue:***50 share certificates—24736, 24737, 24738, 24739, 24742, 24743, 24744, 24745, 24746, 24747, 24748, 24981, 24982, 26990, 26991.***North American Trust Shares 1955 Cumulation Type:***100 share certificates—3670, 8689.**50 share certificates—2914, 3149.**10 share certificate—43934.***North American Trust Shares 1956 Distribution Type:***100 share certificates—DD7222, DD7361, DD11072, DD11374, DD11386, DD15575, DD21354, DD28463, DD32157, DD32716, DD33208, DD36746, DD38441, DD38442, DD50843.**50 share certificates—CC3555, CC3556, CC10838, CC10839.**25 share certificates—BB2909, BB3026, BB3027.**10 share certificates—AA13584, AA13585, AA13586, AA15968, AA15969, AA39045, AA55458.**[31 F.R. 7333, May 20, 1966, as amended at 31 F.R. 13001, Oct. 6, 1966; 35 F.R. 11905, July 24, 1970]***§ 520.207 General Ruling No. 7.**

The provisions of §§ 520.205 and 520.205(b) (General Rulings Nos. 5 and 5B, as amended), are extended to securities or evidences thereof coming from the Panama Canal Zone into any other part of the United States.

§ 520.212 General Ruling No. 12.

(a) Unless licensed or otherwise authorized by the Secretary of the Treasury, (1) any transfer after the effective date of the order is null and void to the extent that it is (or was) a transfer of any property in a blocked account at the time of such transfer; and (2) no transfer after the effective date of the order shall be the basis for the assertion or recognition of any right, remedy, power or privilege with respect to, or interest in, any property while in a blocked account (irrespective

of whether such property was in a blocked account at the time of such transfer).

(b) Unless licensed or otherwise authorized by the Secretary of the Treasury, no transfer before the effective date of the order shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in any property while in a blocked account unless the person with whom such blocked account is held or maintained had written notice of the transfer or by any written evidence had recognized such transfer prior to the effective date of the order.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Secretary of the Treasury before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent as it would be valid or enforceable but for the provisions of section 5(b) of the Trading With the Enemy Act, as amended, and orders, regulations, instructions, and rulings issued thereunder.

(d) Any transfer affected by the order and/or this section and involved in, or arising out of, any action or proceeding in any court within the United States shall, so far as affected by the order and/or this section, be valid and enforceable for the purpose of determining for the parties to the action or proceeding the rights and liabilities therein litigated: *Provided, however,* That no attachment judgment, decree, lien, execution, garnishment, or other judicial process shall confer or create a greater right, power or privilege with respect to, or interest in, any property in a blocked account than the owner of such property could create or confer by voluntary act prior to the issuance of an appropriate license.

(e) For the purpose of this general ruling:

(1) The term "transfer" shall mean any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and without limitation upon the foregoing shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the appointment of any agent, trustee, or other fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power: *Provided, however,* That the term "transfer" shall not be deemed to include transfers by operation of law.

(2) The term "property" includes gold, silver, bullion, currency, coin, credit, securities (as that term is defined in section 2(1) of the Securities Act of 1933, as amended), bills of exchange, notes, drafts, acceptances, checks, letters of credit, book credits, debts, claims, con-

tracts, negotiable documents of title, mortgages, liens, annuities, insurance policies, options and futures in commodities, and evidence of any of the foregoing. The term "property" shall not, except to the extent indicated, be deemed to include chattels or real property.

(3) The term "blocked account" shall refer to a blocked account (including safe deposit box) of a party to the transfer and shall have the meaning prescribed in § 520.204 (General Ruling No. 4) except that it shall not be deemed to include an account not treated as a blocked account by the person with whom such account is held or maintained.

(4) The term "effective date of the order" shall have the meaning prescribed in § 520.204 except that "the effective date of the order" as applied to any person whose name appears on The Proclaimed List of Certain Blocked Nationals shall be the date upon which the name of such person first appeared on such list.

(5) The term "transfer by operation of law" shall be deemed only to mean any transfer of any dower, curtesy, community property, or other interest of any nature whatsoever: *Provided*, That such transfer arises solely as a consequence of the existence or change of marital status; any transfer to any person by interstate succession; any transfer to any person as administrator, executor, or other fiduciary by reason of any testamentary disposition; any transfer to any person as administrator, executor, or fiduciary by reason of judicial appointment or approval in connection with any testamentary disposition or interstate succession; and any transfer pursuant to (i) Netherlands Royal Decree of May 24, 1940, and (ii) Norwegian Provisional Decree of April 22, 1940, concerning the monetary system, etc.

(f) Nothing contained in this section shall be deemed to affect in any way criminal liability for violation of the order, or the regulations, rulings, circulars, or instructions issued thereunder, or in connection therewith, or to otherwise modify any provision thereof.

NOTE: For interpretation of General Ruling No. 12 see § 520.331 (Public Circular No. 31).

§ 520.212a General Ruling No. 12A.

(a) Reference is made to transfers of property in a blocked account which are null and void, or unenforceable, by virtue of the provision of § 520.212 (General Ruling No. 12). Such transfers shall not be deemed to be null and void, or unenforceable, under § 520.212 as to the person with whom such blocked account was held or maintained (and as to such person only) in cases in which such person is able to establish each of the following:

(1) Such transfer did not represent a willful violation of the order by the person with whom such blocked account was held or maintained;

(2) The person with whom such blocked account was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer was not licensed or authorized by the Secretary of the Treasury, or if a license did purport to cover the transfer, that such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that such transfer was in violation of the order, or was not licensed or authorized by the Secretary of the Treasury, or if a license did purport to cover the transfer, that such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained, the person with whom such blocked account was held or maintained filed with the Office of Foreign Assets Control, Treasury Department, Washington, D.C., 20220 a report in triplicate setting forth in full the information called for therein; *Provided, however*, That such report should not be regarded as evidence of compliance with subparagraphs (1) and (2) of this paragraph.

(b) Except as otherwise provided by regulations, rulings, licenses, or instructions expressly referring to this general ruling, no license will be required to validate the authority of any person to act or purport to act in a transaction directly or indirectly for the benefit or on behalf of any country listed in § 520.101(a)(1) or any national thereof: *Provided*, That the transaction in which such person acts or purports to act is licensed or authorized by the Secretary of the Treasury or is not prohibited pursuant to section 5(b) of the Trading With the Enemy Act, as amended.

(c) As used in this section, the term "blocked account" shall have the same meaning as that prescribed in § 520.212.

§ 520.216 General Ruling No. 16.

Regulations relating to safe deposit boxes leased to nationals of countries listed in § 520.101(a)(1) or containing property in which nationals of such countries have an interest.

(a) *Access to certain safe deposit boxes prohibited.* Except as authorized in this section or as specifically licensed or authorized by the Secretary of the Treasury, no person shall be granted access to any safe deposit box within the United States leased to any country listed in § 520.101(a)(1) or national thereof or containing any property in which any country listed in § 520.101(a)(1) or national thereof, has any interest or which there is reasonable cause to believe contains property in which any country listed in § 520.10(a)(1) or national thereof has an interest.

(b) *Access authorized under certain conditions.* (1) Access to any safe deposit box leased to a country listed in § 520.101(a)(1) or national thereof or containing property in which any country listed in § 520.101(a)(1) or national thereof has an interest, and the deposit therein or removal therefrom of any property is hereby authorized: *Provided*, That both of the following conditions are complied with:

(i) Access shall be permitted only in the presence of an authorized representative of the lessor of such box:

(ii) In the event that any property in which any country listed in § 520.101(a)(1) or national thereof has any interest is to be removed from such box, access shall be permitted only in the presence of an authorized representative of a banking institution within the United States, which may be the lessor of such box, which shall receive such property into its custody immediately upon removal from such box and which shall hold the same in a blocked account under an appropriate designation indicating the interests therein of countries listed in § 520.101(a)(1) or national thereof.

(2) The lessee or other person granted access to any safe deposit box under this general ruling shall furnish to the lessor a certificate in triplicate that he has filed or will promptly file a report on Form TFR-300 with respect to such box, if leased to a national of a foreign country, and with respect to all property contained in the box to which access is had in which any foreign country or national thereof has an interest. The lessor shall deliver two copies of such certificate to the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220. The certificate is required only on the first access to the box and need not be furnished if a certificate has been filed pursuant to General License No. 12 prior to the revocation thereof.

§ 520.220 General Ruling No. 20.

(a) *Certain payments not authorized.* General License No. 1 (§ 520.1) (and any other license to the extent that it merely authorizes payments or transfers between blocked accounts of the same person) does not authorize any payment or transfer of property from an account regarded as blocked under § 520.101 (General License No. 101), except to an account which is also regarded as blocked under that section.

(b) *Responsibility for giving notice.* Persons effecting any payment or transfer of property held in a blocked account pursuant to General License No. 1 (or any other license to the extent that it merely authorizes payments or transfers between blocked accounts of the same person) are required to notify the recipient that the property transferred must be placed in a blocked account.

SUBPART D—PUBLIC CIRCULARS

§ 520.321 Public Circular No. 21.

(a) *Status of subaccounts.* Each subaccount of a blocked account is deemed to be a separate blocked account.

(b) *Certain transactions not authorized by General Licenses 1, 4, 27.* (Sections 520.1, 520.4, 520.27) (1) On and after January 16, 1943, §§ 520.1, 520.4, and 520.27 (General Licenses Nos. 1, 4, and 27) shall not be deemed to authorize the crediting of the proceeds of the sale of securities held in a blocked account or a subaccount thereof, or the income derived from such securities, to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(2) [Reserved]

(c) *Certain transactions not authorized by specific licenses.* On and after January 16, 1943, no specific license shall be deemed to authorize (1) the crediting of the proceeds of the sale of securities held in a blocked account or subaccount thereof, (2) the crediting of the income derived from such securities or (3) the transfer of such securities, to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held, unless such specific license by its terms expressly authorizes such crediting or transfer.

§ 520.331 Public Circular No. 31.

(a) Reference is made to § 520.212 (General Ruling No. 12) relating to unlicensed transfers of blocked property.

(b) Under § 520.212a (General Ruling No. 12A), interests in blocked property cannot be acquired, transferred, or created by unlicensed "transfers." Nor may an unlicensed transfer be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any blocked property.

(c) An attachment is a "transfer." See § 520.212(e) (General Ruling No. 12) where the term "transfer" is defined as including "the issuance, docketing, filing, or other levy of or under any judgment, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment." An unlicensed attachment, therefore, cannot operate to transfer or create any interest in blocked property. Nor can it serve as a basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any blocked property.

(d) Section 520.212(d) (General Ruling No. 12) does not constitute a license authorizing the seizure or creation of any interest in blocked property by attachment proceedings or other legal process. This paragraph merely is a formal statement of the position which the Treasury Department has always taken with respect to litigation affecting blocked property—that it does not desire to interfere with such litigation so long as it is clearly understood that the judicial process cannot without a license or other authorization from the Secretary of the Treasury, operate to transfer or create any interest in blocked property. Thus the proviso of § 520.212(d) specifies that "no attachment, judgment, decree, lien, execution, garnishment, or other judicial process shall confer or create a greater right, power, or privilege with respect to, or interest in, any property in a blocked account than the owner of such property could create or confer by voluntary act prior to the issuance of an appropriate license." In issuing § 520.212(d) the Treasury Department did not undertake to decide for the courts whether they should exercise jurisdiction. It simply prescribed that jurisdiction could be exercised only on the basis that if a Treasury license was not issued, the judicial process could not operate to transfer or create any interest in blocked property, nor could it be the basis for the assertion or recognition of any other right, remedy, power or privilege with respect to the property.

(e) [Reserved]

(f) It will be the general policy of the Treasury Department not to grant any license authorizing the creation or acquisition through legal process of any interest in blocked property.

§ 520.335 Public Circular No. 35.

(a) *Reference.* Reference is made to § 520.87 (General License No. 87), exempting certain transactions from section 2A(2) of the order, to § 520.101 (General License No. 101), unblocking certain property, to § 520.205 (General Ruling No. 5) relating to the importation of securities, and to § 520.212 (General Ruling No. 12) relating to unlicensed transfers of property in a blocked account.

(b) *Registered securities.* Securities issued by any person subject to the jurisdiction of the United States which were registered in the name of a national of a country listed in § 520.101(a) (1) on or prior to the effective date of § 520.94 (General License No. 94) for such country are subject to the proviso of § 520.94(a) and constitute property in a

blocked account unless transfer of registry has been appropriately authorized under the order.

(c) *Property of blocked foreign corporations and other organizations.* Property in the United States which is blocked by reason of the interest of any partnership, association, corporation, or other organization, organized under the laws of any foreign country, which is a national of a country listed in § 520.101(a) (1) because of the stock or other interest therein of a country listed in § 520.101(a) (1) or nationals thereof, shall continue to be regarded as property in a blocked account, notwithstanding the transfer of such stock or other interest to any other country or a national thereof.

(d) *Consequences of certain documents.* With respect to paragraphs (b) and (c) of this section, attention is directed to the fact that neither § 520.87 (General License No. 87), exempting certain transactions from section 2A(2) of the order, nor § 520.205 (General Ruling No. 5 of July 25, 1947), removing the restrictions on the importation of securities not specified in the list attached to such ruling, authorizes any transfer of property in a blocked account. Regarding paragraphs (b) and (c) of this section, attention is also expressly directed to the provision of § 520.212 (General Ruling No. 12) concerning the effect of unlicensed transfers of property in a blocked account.

§ 520.340 Public Circular No. 40: Effect of prohibitions with respect to domestic and foreign scheduled securities.

(a) Reference is made to §§ 520.205 and 520.205b (General Licenses Nos. 5 and 5B) with respect to which an inquiry has been received as to whether a contract which calls for delivery of a security of a particular issue without reference to any particular certificate number is null and void if a domestic or foreign scheduled security (as defined in the aforementioned sections) is delivered pursuant to it. It was pointed out that ordinarily if delivery is made of a security which is defective another security of the same issue is required to be substituted. The question is directed to whether §§ 520.205 and 520.205b alter any of the obligations arising out of such a contract.

(b) Unless such a contract creates an obligation to deliver a domestic or foreign scheduled security, a contract for the sale and purchase of securities is not rendered null and void by §§ 520.205 and 520.205b by reason of the delivery of a domestic or foreign scheduled security in purported compliance with the contract. Sections 520.205 and 520.205b do not in any way invalidate any rights of the parties to such a contract to enforce its terms, such as requiring delivery of another security of the same issue. Such a contract does not, however, transfer title to or create any interest in or claim to a domestic or foreign scheduled security.

SUBPART E—[RESERVED]

SUBPART F—REPORTS AND RECORDS

§ 520.601 Records.

Every person engaging in any transaction subject to the provisions of this part shall keep a full and accurate record of each such transaction engaged in by him regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least two years after the date of such transaction.

§ 520.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required by the Secretary of the Treasury or any person acting under his direction or authorization complete information relative to any transaction subject to the provisions of this part or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect. The Secretary of the Treasury or any person acting under his direction may require that such reports include the production of any books of account, contracts, letters or other papers, connected with any such transaction or property, in the custody or control of the persons required to make such reports. Reports with respect to transactions may be required either before or after such transactions are completed. The Secretary of the Treasury may, through any person or agency, investigate any such transaction or property or any violation of the provisions of this part regardless of whether any report has been required or filed in connection therewith.

SUBPART G—PENALTIES

§ 520.701 Penalties.

(a) Attention is directed to section 5(b) of the Trading With the Enemy Act, as amended, which provides in part:

Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000 or, if a natural person, may be imprisoned for not more more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

This section of the Trading With the Enemy Act, as amended, is applicable to violations of any provision of this chapter and to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this chapter or otherwise under section 5(b) of the Trading With the Enemy Act, as amended.

(b) Attention is also directed to 18 U.S.C. 1001 which provides:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more more than 5 years, or both.

SUBPART H—PROCEDURES

§ 520.801 Licensing.

(a) *General licenses.* General licenses have been issued authorizing under appropriate terms and conditions many types of transactions which are subject to the prohibitions contained in the order. All such licenses are set forth in Subpart B of this part. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of certain general licenses are required to file reports and statements in accordance with the instructions specified in the licenses.

(b) *Specific licenses*—(1) *General course of procedure.* Transactions subject to the prohibitions contained in the order which are not authorized by general license may be effected only under specific license. The specific licensing activities of the Office of Foreign Assets Control are performed by the central organization and the Federal Reserve Bank of New York. When an unusual problem is presented, the proposed action is cleared with the director of Foreign Assets Control or such person as he may designate.

(2) *Applications for specific licenses.* Applications for specific licenses to engage in any transaction prohibited by or pursuant to this part are to be filed in duplicate on Form TFAC-23 with the Federal Reserve Bank of New York. Any person having an interest in a transaction or proposed transaction may file an application for a license authorizing the effecting of such transaction, and there is no requirement that any other person having an interest in such transaction shall or should join in making or filing such application.

(3) *Information to be supplied.* Applicants must supply all information specified by the respective forms and instructions. Such documents as may be relevant shall be attached to each application as a part of such application except that document previously filed with the Office of Foreign Assets Control or the Office of Alien Property, Department of Justice, may, where appropriate, be incorporated by reference. Applicants may be required to furnish such further information as is deemed necessary to a proper determination by the Office of Foreign Assets Control. If an applicant or other party in interest desires to present additional information or discuss or argue the application, he may do so at any time before or after decision. Arrangements for oral presentation should be made with the Office of Foreign Assets Control.

(4) *Effect of denial.* The denial of a license does not preclude the reopening of an application or the filing of a further application. The applicant or any other party in interest may at any time request explanation of the reasons for a denial by correspondence or personal interview.

(5) *Reports under specific licenses.* As a condition upon the issuance of any license, the licensee may be required to file reports with respect to the transaction covered by the license, in such form and at such times and places as may be prescribed in the license or otherwise.

(6) *Issuance of license.* Licenses will be issued by the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury or by the Federal Reserve Bank of New York, acting in accordance with such regulations, rulings and instructions as the Secretary of the Treasury or the Office of Foreign Assets Control may from time to time prescribe, in such cases or classes of cases as the Secretary of the Treasury or the Office of Foreign Assets Control may determine, or licenses may be issued by the Secretary of the Treasury acting directly or through any person, agency, or instrumentally designated by him.

§ 520.802 Unblocking.

(a) Any interested person desiring the unblocking of accounts or other property on the ground that the property is not subject to the proviso of § 520.101 may file such an application. Such application shall be filed in the manner provided in § 520.801 (b) and shall contain full information in support of the administrative action requested.

(b) The applicant is entitled to be heard on the application. If the applicant desires a hearing, arrangements should be made with the Office of Foreign Assets Control.

§ 520.803 Decision.

The Office of Foreign Assets Control or the Federal Reserve Bank of New York will advise each applicant of the decision respecting applications filed by him. The decision of the Office of Foreign Assets Control acting on behalf of the the Secretary of the Treasury with respect to an application shall constitute final agency action.

[32 F.R. 10847, July 25, 1967]

§ 520.804 Records and reporting.

(a) Records are required to be kept by every person engaging in any transaction subject to the provisions of this chapter, as provided in § 520.601.

(b) Reports may be required from any person with respect to any transaction subject to the provisions of this chapter or relative to any property in which any foreign country or any national thereof has any interest, as provided in § 520.602.

[32 F.R. 10847, July 25, 1967]

§ 520.805 Amendment, modification or revocation.

The provisions of this part and any rulings, licenses, authorizations, instructions, orders, or forms issued thereunder may be amended, modified, or revoked at any time.

§ 520.806 Rule making.

(a) All rules and other public documents are issued by the Secretary of the Treasury upon recommendation of the Director of Foreign Assets Control or by the Director of the Office of Foreign Assets Control. Except to the extent that there is involved any military, naval, or foreign affairs function of the United States or any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts and except when interpretative rules, general statements of policy, or rules of agency organization, practice, or procedure are involved or when notice and public procedure are impracticable, unnecessary or contrary to the public interest, interested persons will be afforded an opportunity to participate in rule making through submission of written data, views, or argument, with oral presentation in the discretion of the Director. In general, rule making by the Office of Foreign Assets Control involves foreign affairs functions of the United States. Wherever possible, however, it is the practice to hold informal consultations with interested groups or persons before the issuance of any rule or other public document.

(b) Any interested person may petition the Director of Foreign Assets Control in writing for the issuance, amendment or repeal of any rule.

§ 520.807 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to the Trading With the Enemy Act may be taken by the Director, Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

§ 520.809 Rules governing availability of information.

(a) The records of the Office of Foreign Assets Control required by 5 U.S.C. 552 to be made available to the public shall be made available in accordance with the definitions, procedures, payment of fees, and other provisions of the regulations on the Disclosure of Records of the Office of the Secretary and of other bureaus and offices of the Department issued under 5 U.S.C. 552 and published as Part 1 of this Title 31 of the Code of Federal Regulations, 32 F.R. 9562, July 1, 1967.

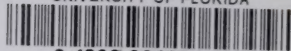
(b) Form TFAC-23 and any other form used in connection with the Foreign Funds Control Regulations may be obtained in person from, or by writing to the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220, or the Foreign Assets Control Division, Federal Reserve Bank of New York, 33 Liberty Street, New York, N.Y. 10045.

[32 F.R. 10847, July 25, 1967]





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